

EXHIBIT J

William Johnson

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1	Exhibit 11 United States Nuclear 48	1	DEPOSITION OF WILLIAM JOHNSON
2	Regulatory Commission	2	
3	memorandum dated September 4, 2018	3	BE IT REMEMBERED, that pursuant to Notice, and
4	Exhibit 12 TVA letter dated August 21, 2018 52	4	on the 9th day of October 2019, commencing at the hour
5		5	of 8:48 a.m., in the offices of Hanson Bridgett, 425
6	Exhibit 13 TVA letter dated August 29, 2018 53	6	Market Street, 26th Floor, San Francisco, California,
7	Exhibit 14 E-mail exchange dated October 18, 2018 72	7	before me, ANGELA SINCLAIR, a Certified Shorthand
8		8	Reporter, personally appeared WILLIAM JOHNSON, produced
9	Exhibit 15 E-mail exchange dated October 25, 2018 76	9	as a witness in said action, and being by me first duly
10	Exhibit 16 E-mail exchange dated November 6, 2018 82	10	sworn, was thereupon examined as a witness in said
11		11	cause.
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23		23	
24		24	LARRY BLUST (pro hac vice)
25		25	HUGHES SOCOL PIERS RESNICK DYM, LTD.
			70 West Madison Street, Suite 4000
			Chicago, Illinois 60602
			(312) 604-2672
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<p style="text-align: right;">Page 5</p> <p>1 For the Defendant:</p> <p>2 MATTHEW LEMBKE</p> <p>3 BRADLEY ARANT BOULT CUMMINGS LLP</p> <p>4 One Federal Place</p> <p>5 1819 Fifth Avenue North</p> <p>6 Birmingham, Alabama 35203</p> <p>7 (202) 521-8000</p> <p>8 mlemcke@bradley.com</p> <p>9</p> <p>10 DAVID AYLIFFE</p> <p>11 OFFICE OF THE GENERAL COUNSEL</p> <p>12 TENNESSEE VALLEY AUTHORITY</p> <p>13 400 West Summit Hill Drive, WT6</p> <p>14 Knoxville, Tennessee 37902</p> <p>15 (866) 632-2101</p> <p>16 ddayliffe@tva.gov</p> <p>17</p> <p>18 Also Present:</p> <p>19 Lorenzo Fernandez-Kopec, Videographer</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 6</p> <p>1 THE VIDEOGRAPHER: Good morning. This begins</p> <p>2 the videotaped deposition of William Johnson in the</p> <p>3 matter Nuclear Development, LLC, verse Tennessee Valley</p> <p>4 Authority filed in the United States District Court for</p> <p>5 the Northern District of Alabama, Northeastern Division.</p> <p>6 Case Number 5:18-CV-01983-LCB.</p> <p>7 This deposition is being held at 425 Market</p> <p>8 Street in San Francisco, California, on October 9th,</p> <p>9 2019. My name is Lorenzo Fernandez-Kopec. I'm the</p> <p>10 videographer. The court reporter today is</p> <p>11 Angela Sinclair, and we are both here representing</p> <p>12 Aptus Court Reporters located at One Embarcadero Center,</p> <p>13 Suite 1060, in San Francisco, California.</p> <p>14 Please note that audio and video recording will</p> <p>15 be taking place unless all parties have agreed to go off</p> <p>16 the record. The time is 8:49. We're on the record now.</p> <p>17 Counsel, will you please state your appearance</p> <p>18 and affiliation.</p> <p>19 MR. O'REAR: Caine O'Rear. I'm with the</p> <p>20 Hand Arendall firm, and I represent Nuclear Development.</p> <p>21 MR. BLUST: Larry Blust. I'm with the Hughes</p> <p>22 Socol firm, and I represent Nuclear Development.</p> <p>23 MR. LEMBKE: I'm Matt Lembke with the Bradley</p> <p>24 firm. I represent the Tennessee Valley Authority.</p> <p>25 MR. AYLIFFE: I'm David Ayliffe with the</p>
<p style="text-align: right;">Page 7</p> <p>1 Tennessee Valley Authority Office of General Counsel</p> <p>2 representing Tennessee Valley Authority.</p> <p>3 (Oath administered by the reporter.)</p> <p>4 THE WITNESS: I do.</p> <p>5 WILLIAM JOHNSON,</p> <p>6 affirmed as a witness,</p> <p>7 testified as follows:</p> <p>8 EXAMINATION BY MR. O'REAR:</p> <p>9 Q. Again, Mr. Johnson, my name is Caine O'Rear</p> <p>10 from Mobile, Alabama, and I represent Nuclear</p> <p>11 Development in this case.</p> <p>12 State your name, please.</p> <p>13 A. William Dean Johnson.</p> <p>14 Q. And what is your current employment?</p> <p>15 A. I'm the president and chief executive officer</p> <p>16 of PG&E Corporation here in San Francisco.</p> <p>17 Q. And can you tell us when you started in that</p> <p>18 position?</p> <p>19 A. May 2nd, 2019.</p> <p>20 Q. What is the office -- your office address</p> <p>21 currently?</p> <p>22 A. 77 Beall Street, San Francisco 94105.</p> <p>23 Q. What is your permanent residence address, or</p> <p>24 what's the city and state of your permanent residence?</p> <p>25 A. That's a good question. I think I'm now a</p>	<p style="text-align: right;">Page 8</p> <p>1 California resident, but I might be a Tennessee</p> <p>2 resident. I'm in between residencies. It takes about</p> <p>3 six or seven months to get a driver's license here, so</p> <p>4 I'll give you two addresses if that works.</p> <p>5 Q. That's fine.</p> <p>6 A. So I currently live at 850 Powell Street in</p> <p>7 San Francisco 94108, and in Tennessee 615 State Street,</p> <p>8 Number 301. I've forgotten my ZIP Code there.</p> <p>9 Q. All right.</p> <p>10 A. 39402.</p> <p>11 Q. Are you establishing a permanent residence in</p> <p>12 California as we speak?</p> <p>13 A. That remains to be seen.</p> <p>14 Q. Okay. Are you personally represented here by</p> <p>15 Mr. Lembke or Mr. Ayliffe at this deposition?</p> <p>16 A. So my understanding is that they represent TVA</p> <p>17 in this matter, and my appearance is in my former role</p> <p>18 as an executive in TVA, so for this matter they are</p> <p>19 representing me in that role.</p> <p>20 Q. Do you understand that this deposition may or</p> <p>21 will be used at the trial of our case or otherwise in</p> <p>22 the proceedings of this case that's pending in the</p> <p>23 Northern District of Alabama?</p> <p>24 A. Yes, sir, I do.</p> <p>25 Q. Can you tell us before you started with PG&E</p>

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<p style="text-align: right;">Page 9</p> <p>1 where you worked?</p> <p>2 A. Well, immediately before I was at the TVA from</p> <p>3 the beginning of 2013 until May the 1st of 2019 as the</p> <p>4 CEO, and before that I was the CEO of a company called</p> <p>5 Progress Energy in Raleigh, North Carolina, and spent</p> <p>6 about 20 years there.</p> <p>7 Q. Okay.</p> <p>8 A. Prior to that I was a partner at Hunton &</p> <p>9 Williams.</p> <p>10 Q. In Richmond? Where were you?</p> <p>11 A. In Raleigh.</p> <p>12 Q. In Raleigh?</p> <p>13 A. One of the lesser offices, as they would say.</p> <p>14 Q. So you have a law degree; is that right?</p> <p>15 A. I do.</p> <p>16 Q. And you practiced law in private practice?</p> <p>17 A. I did. About ten years.</p> <p>18 Q. Okay. What years?</p> <p>19 A. '83 through '92, something along those lines.</p> <p>20 Q. Where did you get your undergraduate degree?</p> <p>21 A. Duke University.</p> <p>22 Q. And what was your degree in?</p> <p>23 A. History and education.</p> <p>24 Q. Where did you attend law school?</p> <p>25 A. The University of North Carolina.</p>	<p style="text-align: right;">Page 10</p> <p>1 Q. Are you currently licensed as an attorney?</p> <p>2 A. I am not.</p> <p>3 Q. When was the last time you were licensed in any</p> <p>4 state?</p> <p>5 A. I would say around the year 2000. Been a</p> <p>6 while.</p> <p>7 Q. What was the nature of your practice when you</p> <p>8 were in private practice?</p> <p>9 A. I was a trial lawyer representing almost</p> <p>10 exclusively utility companies.</p> <p>11 Q. Have you been in the utility or power business</p> <p>12 ever since you left the private practice of law?</p> <p>13 A. Yes. I left the firm to join a client and have</p> <p>14 been in the utility business since '92.</p> <p>15 Q. Have you read the complaint in this case?</p> <p>16 A. I think I looked at it when it was filed but</p> <p>17 have not studied it closely.</p> <p>18 Q. Do you understand the general nature of the</p> <p>19 claims being made by Nuclear Development against TVA?</p> <p>20 A. Yes.</p> <p>21 Q. And when we say "TVA" we mean Tennessee Valley</p> <p>22 Authority; is that correct?</p> <p>23 A. Yes. Yes, I understand the general --</p> <p>24 Q. What's your understanding generally of the</p> <p>25 claim?</p>
<p style="text-align: right;">Page 11</p> <p>1 A. The claim is for specific performance of a</p> <p>2 contract for the sale of, I suppose, realty but</p> <p>3 partially finished nuclear plant, and I think there are</p> <p>4 some other damage claims in there.</p> <p>5 Q. Were you the CEO of TVA when the complaint was</p> <p>6 filed on November 30, 2018?</p> <p>7 A. I was.</p> <p>8 Q. And you said your last day at TVA was</p> <p>9 May 1st --</p> <p>10 A. May 1st.</p> <p>11 Q. -- 2019?</p> <p>12 A. Yes, sir.</p> <p>13 Q. What was the reason for leaving TVA?</p> <p>14 A. I announced in November my retirement. I</p> <p>15 turned 65 in January of 2019, so it was time to retire.</p> <p>16 Q. And, yet, you picked up another job</p> <p>17 immediately; right?</p> <p>18 A. It wasn't immediately, but it was shortly after</p> <p>19 I announced my retirement. I had friends here, friends</p> <p>20 on the board who asked me to come and help them at PG&E.</p> <p>21 So yeah, it was pretty quick. It was a short</p> <p>22 retirement.</p> <p>23 Q. Yeah. You started the day after you left TVA?</p> <p>24 A. Yes.</p> <p>25 Q. Is that correct?</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yeah. But there were two weeks of vacation in</p> <p>2 between. So. . .</p> <p>3 Q. Just to put on the record, there have been a</p> <p>4 number of communications and documents that have been</p> <p>5 exchanged in this case that relate to this case in the</p> <p>6 years 2016, 2017, 2018. You were CEO of TVA during</p> <p>7 that -- during all of those years; is that correct?</p> <p>8 A. That's correct.</p> <p>9 Q. Does TVA have a board of directors?</p> <p>10 A. Yes.</p> <p>11 Q. How large is the board?</p> <p>12 A. I believe it's nine seats. I don't know how</p> <p>13 many are filled at the moment.</p> <p>14 Q. And are those board members appointed by the</p> <p>15 President?</p> <p>16 A. Appointed by the President, confirmed by the</p> <p>17 Senate.</p> <p>18 Q. Of the United -- President of the</p> <p>19 United States?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Who was the chairman of the board when you left</p> <p>22 TVA?</p> <p>23 A. Richard Howorth.</p> <p>24 Q. Who was the chairman that preceded him?</p> <p>25 A. Joe Rich.</p>

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<p style="text-align: right;">Page 13</p> <p>1 Q. And when did Richard Howorth become chairman of</p> <p>2 the board, if you know?</p> <p>3 A. I think the end of 2017, but I'm not entirely</p> <p>4 certain. Somewhere in that time frame.</p> <p>5 Q. Do you know who the chair is now?</p> <p>6 A. I believe the chair is Skip Thompson from</p> <p>7 Decatur, Alabama.</p> <p>8 Q. As president and CEO of TVA, did you report to</p> <p>9 the board?</p> <p>10 A. Yes.</p> <p>11 Q. Were you appointed as president and as CEO by</p> <p>12 the board?</p> <p>13 A. I was in the fall of 2012.</p> <p>14 Q. And did you serve at the pleasure of the board?</p> <p>15 A. Absolutely.</p> <p>16 Q. Are the members of the board of directors</p> <p>17 responsible for establishing the policies of TVA?</p> <p>18 A. The duties of the board are spelled out in the</p> <p>19 TVA Act specifically, and that is in fact one of the</p> <p>20 things in the act, that they help create and oversee</p> <p>21 policy.</p> <p>22 Q. The CEO is not charged with or authorized to</p> <p>23 set the policy of TVA absent board approval; is that</p> <p>24 correct?</p> <p>25 A. The CEO works in conjunction with the board, I</p>	<p style="text-align: right;">Page 14</p> <p>1 can't remember the specific language, but to develop and</p> <p>2 implement policies.</p> <p>3 Q. But the CEO cannot independently establish the</p> <p>4 policy of CVA -- of TVA; is that correct?</p> <p>5 A. I think that would require me to parse the</p> <p>6 statutory language, and I don't think that's one of my</p> <p>7 main core skills anymore. So I would refer you to the</p> <p>8 act.</p> <p>9 Q. All right. Is there anything in the act that</p> <p>10 you're aware of that says the CEO can establish the</p> <p>11 policy of TVA?</p> <p>12 A. Sitting here, I can't remember. But I hadn't</p> <p>13 looked at the act in some time.</p> <p>14 Q. Can you tell us generally what you did to</p> <p>15 prepare for your deposition here today?</p> <p>16 A. Sure. I met for a short time yesterday with</p> <p>17 these two lawyers.</p> <p>18 Q. Mr. Lembke and Mr. Ayliffe?</p> <p>19 A. Correct.</p> <p>20 Q. Is that it?</p> <p>21 A. Yep.</p> <p>22 Q. Did you review the contract between Nuclear</p> <p>23 Development and TVA?</p> <p>24 A. We reviewed a number of documents.</p> <p>25 Q. Did you review e-mails?</p>
<p style="text-align: right;">Page 15</p> <p>1 A. We reviewed a number of documents.</p> <p>2 Q. Did they include e-mails?</p> <p>3 A. They did.</p> <p>4 Q. Let me show you what's been marked as Exhibit 1</p> <p>5 to your deposition.</p> <p>6 (Deposition Exhibit 1 was marked.)</p> <p>7 MR. O'REAR: Let me see. Keep this clip on</p> <p>8 because they're not --</p> <p>9 MR. BLUST: Here you go.</p> <p>10 MR. O'REAR: This is one document.</p> <p>11 BY MR. O'REAR:</p> <p>12 Q. Can you identify Exhibit 1?</p> <p>13 A. It is titled the "Bellefonte Nuclear Plant Site</p> <p>14 Purchase and Sales Agreement."</p> <p>15 Q. I'll represent to you this is a copy of the</p> <p>16 contract that was attached to the complaint filed in</p> <p>17 this lawsuit.</p> <p>18 Can you identify that as the complaint</p> <p>19 between -- excuse me -- the contract between TVA and</p> <p>20 Nuclear Development?</p> <p>21 A. That is what it appears to be.</p> <p>22 Q. If you could keep the clip on that, keep those</p> <p>23 pages from scattering, I'd appreciate it.</p> <p>24 A. Yep.</p> <p>25 Q. Before that contract --</p>	<p style="text-align: right;">Page 16</p> <p>1 MR. LEMBKE: I'm going to object to the form</p> <p>2 and just ask: Is the amendment to the contract included</p> <p>3 in this document?</p> <p>4 MR. O'REAR: The amendment extending the -- no,</p> <p>5 it's not attached to that exhibit, but it will be an</p> <p>6 exhibit.</p> <p>7 MR. LEMBKE: All right. Well, I object to the</p> <p>8 form of the question of asking if this is the complete</p> <p>9 contract.</p> <p>10 BY MR. O'REAR:</p> <p>11 Q. Does that appear to be the contract that was</p> <p>12 executed on November 14, 2016?</p> <p>13 A. It appears to be the document I was looking at</p> <p>14 about that time, yes.</p> <p>15 Q. Did you issue a report to the board prior to</p> <p>16 the execution of this contract that recommended the sale</p> <p>17 of Bellefonte as surplus property of TVA?</p> <p>18 A. Yes, I did.</p> <p>19 (Deposition Exhibit 2 was marked.)</p> <p>20 BY MR. O'REAR:</p> <p>21 Q. I'm handing you what has been marked as</p> <p>22 Exhibit 2 to your deposition. Can you identify that?</p> <p>23 A. Yes. This is a memorandum from me and the</p> <p>24 general counsel of TVA to the board of directors</p> <p>25 requesting that we declare a surplus and authorize to</p>

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<p style="text-align: right;">Page 17</p> <p>1 sell at auction the Bellefonte Nuclear Plant and site.</p> <p>2 Q. Directing your attention to the second page of</p> <p>3 the exhibit under the caption "recommended action and</p> <p>4 potential risk."</p> <p>5 Did you recommend that the site be sold without</p> <p>6 conditions on the potential use of the site by the</p> <p>7 buyer?</p> <p>8 A. I don't think there are any conditions listed</p> <p>9 here. We certainly did have some conditions we would</p> <p>10 consider for uses of this site when it got around to the</p> <p>11 auction, but here I don't think we limited any</p> <p>12 conditions.</p> <p>13 Q. Okay. Well, could you read the first sentence</p> <p>14 under that caption?</p> <p>15 A. "Management recommends that the board declare</p> <p>16 the site surplus and authorize its sale without</p> <p>17 conditions on the potential use of the site."</p> <p>18 Q. And that was part of the report --</p> <p>19 A. Yeah.</p> <p>20 Q. -- that you submitted to the board?</p> <p>21 A. Right.</p> <p>22 Q. Ultimately in terms of parties that were</p> <p>23 interested in purchasing the site, were there any</p> <p>24 parties interested in using the site as a nuclear</p> <p>25 facility other than Nuclear Development?</p>	<p style="text-align: right;">Page 18</p> <p>1 A. I believe there was one other interested party.</p> <p>2 I know there was at least another interested party that</p> <p>3 engaged in the bidding. I don't recall whether they had</p> <p>4 a nuclear interest in it or some other.</p> <p>5 Q. Do you know who that interested party was?</p> <p>6 A. What I recall is I think it was a group from</p> <p>7 India, but I've -- can't recall exactly who it was.</p> <p>8 Q. Wasn't that bidder the losing bidder in the</p> <p>9 auction; is that correct? Is that who you're referring</p> <p>10 to?</p> <p>11 A. The party I'm referring to was in the auction</p> <p>12 and did not prevail, yes.</p> <p>13 Q. Wasn't the intent of that bidder to sell the</p> <p>14 parts from Bellefonte to India?</p> <p>15 A. I don't know the answer to that.</p> <p>16 Q. You don't have any information on that?</p> <p>17 A. I have no recollection of what it was.</p> <p>18 Q. Do you think you may have had information on</p> <p>19 that at the time of the auction?</p> <p>20 A. Possible. Really can't recall.</p> <p>21 Q. Keeping your attention on page 2 of the report,</p> <p>22 did you, in making this recommendation to the board,</p> <p>23 recognize that there could be competition from a</p> <p>24 potential buyer of Bellefonte with TVA by a merchant</p> <p>25 nuclear plant?</p>
<p style="text-align: right;">Page 19</p> <p>1 A. Yes. That condition existed and continues to</p> <p>2 exist for anybody who wants to build a plant in the TVA</p> <p>3 service territory.</p> <p>4 Q. So in your recommendation there was no</p> <p>5 requirement for a noncompetition agreement or a</p> <p>6 nonsolicitation agreement by a potential buyer --</p> <p>7 A. No.</p> <p>8 Q. -- of the plant; is that correct?</p> <p>9 A. That's correct.</p> <p>10 Q. In 2016, when this report was prepared, who was</p> <p>11 TVA's largest power customer?</p> <p>12 A. Probably the City of Memphis. I'm trying to</p> <p>13 remember. There was a bigger one, but I think they had</p> <p>14 gone out of business by then.</p> <p>15 Q. When you left TVA, who was TVA's largest power</p> <p>16 customer?</p> <p>17 A. It was either Memphis or Nashville.</p> <p>18 Historically it had been Memphis. Nashville was gaining</p> <p>19 on them, so I don't know exactly, but it was one of</p> <p>20 those two.</p> <p>21 Q. Direct your attention to page 4 of your report,</p> <p>22 there's reference to an appraisal that was done for TVA</p> <p>23 of the Bellefonte site. Do you recall that?</p> <p>24 A. I do.</p> <p>25 Q. Do you recall the value that was reached in</p>	<p style="text-align: right;">Page 20</p> <p>1 that appraisal?</p> <p>2 A. So I don't have any direct recollection. I can</p> <p>3 see what's written here.</p> <p>4 Q. As far as you know, is what is written there</p> <p>5 correct?</p> <p>6 A. I'm sure it was correct at the time since I</p> <p>7 signed this.</p> <p>8 Q. You wouldn't -- you wouldn't have put an</p> <p>9 incorrect --</p> <p>10 A. Right.</p> <p>11 Q. -- appraisal amount in the report, would you?</p> <p>12 A. No. No.</p> <p>13 Q. And it says that the appraisal company</p> <p>14 estimated the fair market value of the plant</p> <p>15 infrastructure supporting these uses at 36.4 million;</p> <p>16 correct?</p> <p>17 A. That's correct. That's what it says.</p> <p>18 Q. And did TVA, as it says here, do an internal</p> <p>19 appraisal and estimate the fair market value at</p> <p>20 11.3 million?</p> <p>21 A. Yes, that's what it says here. Again, no</p> <p>22 direct recollection, but that's what it says here.</p> <p>23 Q. And what was the ultimate bid price by Nuclear</p> <p>24 Development at the auction?</p> <p>25 A. I believe it was 110 or 111 million, somewhere</p>

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<p style="text-align: right;">Page 21</p> <p>1 in that range.</p> <p>2 Q. Now, after this the report was submitted to the</p> <p>3 board, did the board adopt a resolution approving the</p> <p>4 sale of Bellefonte as surplus property?</p> <p>5 A. Yes.</p> <p>6 (Deposition Exhibit 3 was marked.)</p> <p>7 BY MR. O'REAR:</p> <p>8 Q. I'm handing you what's been marked as Exhibit 3</p> <p>9 to the deposition. Can you identify Exhibit 3 as the</p> <p>10 minutes of the board of directors meeting of May 5th,</p> <p>11 2016, approving the sale of Bellefonte as surplus</p> <p>12 property?</p> <p>13 A. The document is entitled "Minutes of the</p> <p>14 meeting of the board of directors Tennessee Valley</p> <p>15 Authority May 5, 2016."</p> <p>16 Q. Look at the second page. You were in</p> <p>17 attendance at that meeting; correct?</p> <p>18 A. Correct.</p> <p>19 Q. All right, sir. If you would direct your</p> <p>20 attention to page 8 and continuing through page 9 and</p> <p>21 10, is that the resolution that was adopted by the board</p> <p>22 to sell Bellefonte?</p> <p>23 A. That is the resolution with two members</p> <p>24 abstaining to declare a surplus at auction, yes, sir.</p> <p>25 Q. But the resolution was adopted according to</p>	<p style="text-align: right;">Page 22</p> <p>1 vote under bylaws of the -- of TVA; is that correct?</p> <p>2 A. Correct.</p> <p>3 Q. Are these minutes part of the public record of</p> <p>4 TVA?</p> <p>5 A. I don't know whether these -- they are</p> <p>6 certainly part of the official record. I don't know if</p> <p>7 they're publicly available or not, but they're certainly</p> <p>8 part of the official record.</p> <p>9 Q. All right, sir. And do you know whether</p> <p>10 they're posted on the website of TVA or not?</p> <p>11 A. I do not.</p> <p>12 Q. Are these minutes available to anyone that</p> <p>13 would ask for them, any member of the public that would</p> <p>14 ask for them?</p> <p>15 A. Again, I don't know the answer to that. I seem</p> <p>16 to recall they're not. But I really don't know. I</p> <p>17 always had them.</p> <p>18 Q. What leads you to believe they may not be</p> <p>19 subject to production to a member of the public?</p> <p>20 A. I just -- I don't know the answer. Minutes</p> <p>21 generally are not available as a regular corporate</p> <p>22 matter. I don't know how it applies here at TVA. Never</p> <p>23 had to go look publicly for them because I had them.</p> <p>24 Q. When you say minutes are generally not</p> <p>25 available, you're referring to the minutes of a board of</p>
<p style="text-align: right;">Page 23</p> <p>1 a private company?</p> <p>2 A. Right, correct.</p> <p>3 Q. TVA is a government corporation; is that</p> <p>4 correct?</p> <p>5 A. That is correct.</p> <p>6 (Deposition Exhibit 4 was marked.)</p> <p>7 BY MR. O'REAR:</p> <p>8 Q. I'm handing you Exhibit 4 to the deposition.</p> <p>9 Does that appear to be a stand-alone copy of the</p> <p>10 resolution that was adopted by the board at its meeting</p> <p>11 on May the 5th, 2017 -- excuse me -- 2016?</p> <p>12 A. Yes, it does.</p> <p>13 Q. Pardon me. I didn't give you the original.</p> <p>14 Let me substitute this for that document, Number 3.</p> <p>15 Number 3.</p> <p>16 A. That's 4.</p> <p>17 MR. LEMBKE: That's 4.</p> <p>18 BY MR. O'REAR:</p> <p>19 Q. I'm sorry. Number 4.</p> <p>20 Directing your attention back to Exhibit 2 and</p> <p>21 the first page of that exhibit, in your report did you</p> <p>22 state that the purpose of the sale would be to bring</p> <p>23 economic development and jobs into the area surrounding</p> <p>24 the Bellefonte plant?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. After this resolution was adopted, did TVA</p> <p>2 retain a company by the name of Concentric Energy</p> <p>3 Advisors to assist it in the sales process?</p> <p>4 A. Yes.</p> <p>5 Q. What was their role, scope of work?</p> <p>6 A. As I recall it, their scope was to identify</p> <p>7 potential buyers. Concentric had a history of being</p> <p>8 engaged in the sale of nuclear plant and nuclear</p> <p>9 facilities. And also just to see what the appetite in</p> <p>10 the market was for the property.</p> <p>11 Q. Who was responsible at TVA for supervising</p> <p>12 Concentric?</p> <p>13 A. I do not know.</p> <p>14 Q. Were you?</p> <p>15 A. No.</p> <p>16 Q. Okay. Did you have direct communications with</p> <p>17 them regarding this project?</p> <p>18 A. I didn't have direct oral communication. I did</p> <p>19 have some -- I saw some correspondence with them.</p> <p>20 Q. That you were copied on?</p> <p>21 A. No.</p> <p>22 Q. You saw correspondence between them and other</p> <p>23 members of TVA, other employees --</p> <p>24 A. I saw --</p> <p>25 Q. -- of TVA?</p>

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<p style="text-align: right;">Page 25</p> <p>1 A. Pardon me.</p> <p>2 I saw correspondence between them, and I don't</p> <p>3 know if it was Nuclear Development then, but the entity</p> <p>4 that eventually became Nuclear Development.</p> <p>5 Q. Part of the process in developing the contract,</p> <p>6 is that what these -- this correspondence related to?</p> <p>7 A. Yes. The correspondence I recall was related</p> <p>8 to terms being negotiated.</p> <p>9 Q. But did you recall if you ever made any</p> <p>10 decisions or gave any direction to Concentric in terms</p> <p>11 of the negotiation of the terms of the contract?</p> <p>12 A. I never gave any directions to Concentric.</p> <p>13 Q. The bid process was put in motion after</p> <p>14 Concentric was retained; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. And was the appraisal value of 36.4 million</p> <p>17 established as a minimum bid price?</p> <p>18 A. I really don't recall that.</p> <p>19 (Deposition Exhibit 5 was marked.)</p> <p>20 BY MR. O'REAR:</p> <p>21 Q. I'm handing you Exhibit 5 to the deposition.</p> <p>22 Can you identify that as a TVA press release regarding</p> <p>23 the sale of Bellefonte to Nuclear Development dated</p> <p>24 November 14, 2016?</p> <p>25 A. This is identified as a press release from the</p>	<p style="text-align: right;">Page 26</p> <p>1 TVA titled "TVA completes Bellefonte sale November 14th,</p> <p>2 2016."</p> <p>3 Q. And the first paragraph references the sale of</p> <p>4 1,400-acre Bellefonte property near Hollywood, Alabama,</p> <p>5 to Nuclear Development, LLC?</p> <p>6 A. Correct.</p> <p>7 Q. For the purchase price of 100 million -- excuse</p> <p>8 me -- 111 million?</p> <p>9 A. 111 million.</p> <p>10 Q. Then if you look to the middle of that page, it</p> <p>11 says, "TVA set the property's minimum auction price at</p> <p>12 36.4 million"?</p> <p>13 A. That is what it says.</p> <p>14 Q. Okay. You don't contest that, do you?</p> <p>15 A. No. I just don't recall that, but. . .</p> <p>16 Q. It also says, "Concentric Advisors marketed the</p> <p>17 property to more than 500 potential buyers with 11</p> <p>18 expressing an interest and signing confidentiality</p> <p>19 agreements."</p> <p>20 Do you see that?</p> <p>21 A. I do see that.</p> <p>22 Q. It says, "Three bidders completed letters of</p> <p>23 intent which included financial qualifications and a</p> <p>24 plan on how they intend to use the property"; correct?</p> <p>25 A. That's what it says, yes, sir.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. All right, sir. So would there be some record</p> <p>2 in TVA about the intent of the three bidders on how they</p> <p>3 expected to use the property?</p> <p>4 MR. LEMBKE: Object to the form. Vague.</p> <p>5 You can answer if you understand it.</p> <p>6 THE WITNESS: I don't know what would be in the</p> <p>7 records.</p> <p>8 BY MR. O'REAR:</p> <p>9 Q. If this press release is true, three bidders</p> <p>10 that completed letters of intent included in that</p> <p>11 financial qualifications and a plan on how they intend</p> <p>12 to use the property; correct?</p> <p>13 A. That's what it says. And I believe that if TVA</p> <p>14 issued this, it is true. Where those documents are,</p> <p>15 what they are, I do not know.</p> <p>16 Q. All right, sir. It also says that, "As part of</p> <p>17 the deal, TVA required Nuclear Development to make a</p> <p>18 25 million minimum investment in the Bellefonte property</p> <p>19 during the five-year period following the closing."</p> <p>20 Was that a true statement?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. And that -- was that part of the goal of</p> <p>23 TVA, to promote economic development in the area around</p> <p>24 the Bellefonte plant?</p> <p>25 A. Yes. So we wanted to put this site into</p>	<p style="text-align: right;">Page 28</p> <p>1 productive use of some kind. And given the length of</p> <p>2 the closing period requested by the buyer, we wanted to</p> <p>3 make sure there was some activity happening that would</p> <p>4 promote economic development in the short term.</p> <p>5 Q. Do you recall the bidder other than Nuclear</p> <p>6 Development at this auction to be a company called</p> <p>7 National Environmental Group with a principal by the</p> <p>8 name of Aaron Abadi?</p> <p>9 A. I do not.</p> <p>10 Q. Did you ever have any direct communication with</p> <p>11 a principal of the National Environmental Group or</p> <p>12 Mr. Abadi regarding this matter?</p> <p>13 A. No.</p> <p>14 Q. Have you spoken to Mr. Abadi or anyone on</p> <p>15 behalf of the National Environmental Group since the</p> <p>16 closing date, the contractual closing date of</p> <p>17 November 30, 2018?</p> <p>18 A. I have not. I may have spoken to somebody from</p> <p>19 that group just coincidentally, but I have no knowledge</p> <p>20 of that.</p> <p>21 Q. Okay.</p> <p>22 A. I meet a lot of people in my life, but no</p> <p>23 direct knowledge of anything like that.</p> <p>24 Q. Have you -- I asked if you had ever spoken</p> <p>25 with. Have you had any communication with anyone on</p>

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<p style="text-align: right;">Page 29</p> <p>1 behalf of National Environmental Group since the date of</p> <p>2 the closing of November 30, 2018?</p> <p>3 A. To the best of my knowledge, no.</p> <p>4 Q. And I believe you testified earlier you do not</p> <p>5 know the stated purpose by that group for use of this</p> <p>6 site; is that correct?</p> <p>7 A. Correct.</p> <p>8 Q. If that group had been the successful bidder on</p> <p>9 this project, would TVA have transferred the property to</p> <p>10 him without the transfer of the construction permits?</p> <p>11 MR. LEMBKE: Object to the form. Calls for</p> <p>12 speculation.</p> <p>13 You can answer if you know.</p> <p>14 THE WITNESS: I don't think it would have been</p> <p>15 lawful to do so.</p> <p>16 BY MR. O'REAR:</p> <p>17 Q. Were you the person that approved the final</p> <p>18 version of the contract with Nuclear Development?</p> <p>19 A. No.</p> <p>20 Q. Who was that?</p> <p>21 A. I would assume it was the general counsel.</p> <p>22 Q. Did you make any decisions regarding the</p> <p>23 approval or the rejection of any particular provisions</p> <p>24 of the contract during the negotiations before it was</p> <p>25 signed?</p>	<p style="text-align: right;">Page 30</p> <p>1 A. I didn't make any requests, but I did have some</p> <p>2 discussions, particularly about the length of --</p> <p>3 MR. LEMBKE: Stop. I don't want you to</p> <p>4 disclose any internal --</p> <p>5 THE WITNESS: There we go.</p> <p>6 MR. LEMBKE: I instruct you not to answer as to</p> <p>7 internal discussions with TVA counsel.</p> <p>8 MR. O'REAR: Well, he can testify if he had</p> <p>9 discussions. I haven't even asked him about that yet.</p> <p>10 MR. LEMBKE: Well, he started to say the</p> <p>11 content of the discussions and so I stopped him.</p> <p>12 MR. O'REAR: Okay.</p> <p>13 BY MR. O'REAR:</p> <p>14 Q. My question was: Did you make any decisions</p> <p>15 regarding any aspect of the contract before it was</p> <p>16 signed?</p> <p>17 MR. LEMBKE: Object to the form. Vague.</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. O'REAR:</p> <p>20 Q. And what aspects of the contract?</p> <p>21 A. Length of the due diligence period.</p> <p>22 Q. And what was your decision on that?</p> <p>23 A. Well, really I wanted to understand why it was</p> <p>24 extended, and I wanted to make sure that we didn't have</p> <p>25 an open-ended condition, in other words, that this</p>
<p style="text-align: right;">Page 31</p> <p>1 process could drag on for a long period of time when our</p> <p>2 objective was short-term economic development and</p> <p>3 prosperity in the region.</p> <p>4 So that was the main thing I was interested in.</p> <p>5 Q. When you said a due diligence period, are you</p> <p>6 referring to the two years between the date of the</p> <p>7 contract and the date of the closing?</p> <p>8 A. Yes. And so probably better said in the</p> <p>9 closing period, but yes, the two-year period.</p> <p>10 Q. Is that the only section of the contract that</p> <p>11 you recall you made a decision on?</p> <p>12 A. I don't believe I said I made a decision on it.</p> <p>13 I was interested in discussing it, but in general I</p> <p>14 didn't make any decision about the terms. That was the</p> <p>15 party that was doing the negotiating for us.</p> <p>16 Q. And who was that?</p> <p>17 A. That was a group of people. It was the general</p> <p>18 counsel's office, the real estate people, some of the</p> <p>19 nuclear people.</p> <p>20 Q. Okay. Who at the general counsel's office was</p> <p>21 responsible for those decisions?</p> <p>22 A. So my interface was with Sherry Quirk, the</p> <p>23 general counsel.</p> <p>24 Q. And was she the person at the general counsel's</p> <p>25 office responsible for the decisions made with respect</p>	<p style="text-align: right;">Page 32</p> <p>1 to the contract?</p> <p>2 A. Yes.</p> <p>3 Q. Who at the real estate division?</p> <p>4 A. I really can't remember.</p> <p>5 Q. Anyone at the licensing division?</p> <p>6 A. I don't know.</p> <p>7 Q. Any other individuals that you recall that had</p> <p>8 ultimate responsibility for their department or division</p> <p>9 regarding the formation of the contract?</p> <p>10 A. I really can't remember.</p> <p>11 Q. Were you aware, during negotiation of the terms</p> <p>12 of the contract, that Nuclear Development requested that</p> <p>13 the transfer of the construction permits be a condition</p> <p>14 of the closing?</p> <p>15 A. I can't recall that, no.</p> <p>16 Q. Do you recall that you made any decisions</p> <p>17 regarding a condition of the contract being a transfer</p> <p>18 of the construction permits?</p> <p>19 MR. LEMBKE: Objection. Asked and answered.</p> <p>20 THE WITNESS: I did not.</p> <p>21 BY MR. O'REAR:</p> <p>22 Q. How many lawyers are in the legal department of</p> <p>23 TVA?</p> <p>24 A. I think that department was about 50. I don't</p> <p>25 think they were all lawyers, but I think the department</p>

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<p style="text-align: right;">Page 33</p> <p>1 was about 50.</p> <p>2 Q. Was Joe Shea the head of the licensing</p> <p>3 department at this time?</p> <p>4 A. What time?</p> <p>5 Q. The time the contract was formed in 2016.</p> <p>6 A. I believe he was.</p> <p>7 Q. Was he head of the licensing department in</p> <p>8 2018?</p> <p>9 A. I believe he was.</p> <p>10 Q. How large is that department?</p> <p>11 A. I don't know.</p> <p>12 Q. Do you know if there are any lawyers that are</p> <p>13 assigned to the licensing department?</p> <p>14 A. There were lawyers who had responsibility for</p> <p>15 nuclear matters generally, so I would assume that maybe</p> <p>16 includes licensing. All I know is that there were</p> <p>17 people who had nuclear responsibilities.</p> <p>18 Q. In terms of the promotion of the economic</p> <p>19 development to result from the sale of this project,</p> <p>20 were you familiar with Nuclear Development's projections</p> <p>21 that this project would create an average of 8,420 jobs</p> <p>22 per year during the construction period and 12.6 billion</p> <p>23 in economic and fiscal impact?</p> <p>24 A. I can remember Nuclear Development talking</p> <p>25 about the benefits to the region. I can't recall any</p>	<p style="text-align: right;">Page 34</p> <p>1 specific numbers as you -- as you've quoted there.</p> <p>2 Q. I'll read you another and ask you if you recall</p> <p>3 this.</p> <p>4 Were you aware at the time of the creation of</p> <p>5 the contract of Nuclear Development's projection that</p> <p>6 the contract and project would create an average of</p> <p>7 4,176 jobs per year during the 60-year operational</p> <p>8 period and 37.7 billion in economic and fiscal impact?</p> <p>9 MR. LEMBKE: Object to the form. We don't know</p> <p>10 what you're reading from.</p> <p>11 BY MR. O'REAR:</p> <p>12 Q. Would your answer be the same, you don't recall</p> <p>13 the specific figures?</p> <p>14 A. Correct. I remember Nuclear Development</p> <p>15 promoting the benefits of their projects, but the</p> <p>16 specifics I don't recall.</p> <p>17 (Deposition Exhibit 6 was marked.)</p> <p>18 BY MR. O'REAR:</p> <p>19 Q. Let me show you what has been marked as</p> <p>20 Exhibit 6. That is a document that's been produced from</p> <p>21 TVA's records regarding this.</p> <p>22 Do you recall ever seeing this document or</p> <p>23 something similar to it?</p> <p>24 MR. BLUST: I think you handed the wrong one.</p> <p>25 Let's see what you got here. Okay. You don't have that</p>
<p style="text-align: right;">Page 35</p> <p>1 in this packet I don't think unless it's stapled to</p> <p>2 that.</p> <p>3 MR. O'REAR: Should be.</p> <p>4 MR. BLUST: What is it? Yeah, I don't have</p> <p>5 that in the order. Let's just see what we got here.</p> <p>6 MR. O'REAR: Excuse me. Off the record for</p> <p>7 just a minute.</p> <p>8 THE VIDEOGRAPHER: All right. The time is</p> <p>9 9:29. We're going off the record.</p> <p>10 (Break taken at 9:29 a.m.)</p> <p>11 THE VIDEOGRAPHER: The time is 9:32. We're</p> <p>12 back on the record.</p> <p>13 BY MR. O'REAR:</p> <p>14 Q. Mr. Johnson, do you recognize Exhibit 6 as a</p> <p>15 document within TVA's files regarding Nuclear</p> <p>16 Development's projections of the economic impact of this</p> <p>17 project?</p> <p>18 A. No, I do not.</p> <p>19 Q. When the contract was signed, did you believe</p> <p>20 that Nuclear Development would have the financial</p> <p>21 ability to close the deal?</p> <p>22 A. I didn't have a basis to know whether they</p> <p>23 would or not.</p> <p>24 Q. Did you have any personal opinion about that?</p> <p>25 A. I thought it would be a difficult project to</p>	<p style="text-align: right;">Page 36</p> <p>1 finance and build, but I had plenty of my own issues to</p> <p>2 deal with at that time. So I really didn't spend a lot</p> <p>3 of time thinking about how they were going to do it.</p> <p>4 Q. Did you ever make a statement that you did not</p> <p>5 believe that Nuclear Development could raise the funds</p> <p>6 to close the deal?</p> <p>7 MR. LEMBKE: Mr. Johnson, I direct you, to the</p> <p>8 extent this would require you to reveal statements made</p> <p>9 to TVA's counsel, you should not disclose those</p> <p>10 statements.</p> <p>11 MR. O'REAR: Well, I don't understand how that</p> <p>12 would be legal advice.</p> <p>13 MR. LEMBKE: My instruction stands.</p> <p>14 MR. O'REAR: Well, reserve the right to contest</p> <p>15 that.</p> <p>16 THE WITNESS: I don't recall ever making any</p> <p>17 such statement.</p> <p>18 BY MR. O'REAR:</p> <p>19 Q. When the contract was signed, did you have any</p> <p>20 personal opinion about whether Nuclear Development would</p> <p>21 have the technical capability to construct and operate a</p> <p>22 nuclear facility?</p> <p>23 A. Nuclear Development itself I did not think had</p> <p>24 the capability, but I also knew that they were looking</p> <p>25 for the capability to build it, looking for an architect</p>

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<p style="text-align: right;">Page 37</p> <p>1 engineer, and I was told by Nuclear Development that</p> <p>2 they were looking for an operating partner.</p> <p>3 Q. Did you have any personal opinion about whether</p> <p>4 they would be successful in that effort?</p> <p>5 A. I had a personal opinion that TVA would have</p> <p>6 had a very difficult time doing this project. That's</p> <p>7 why we decided not to do it. So I thought anybody would</p> <p>8 have a very difficult time with this project.</p> <p>9 Q. Did you ever make a statement to anyone that</p> <p>10 you did not believe Nuclear Development could ever</p> <p>11 construct or build a nuclear facility at Bellefonte?</p> <p>12 MR. LEMBKE: Same instruction.</p> <p>13 BY MR. O'REAR:</p> <p>14 Q. Construct or operate. Excuse me.</p> <p>15 MR. LEMBKE: Same instruction.</p> <p>16 THE WITNESS: I don't recall any such</p> <p>17 statement.</p> <p>18 BY MR. O'REAR:</p> <p>19 Q. When the contract was signed, were you</p> <p>20 concerned about potential competition from Nuclear</p> <p>21 Development for any of TVA's customers with regard to</p> <p>22 the sale of power?</p> <p>23 A. No, I was not concerned. It was a risk we had</p> <p>24 considered and talked to -- talked about with the board,</p> <p>25 but I was not concerned about it. It's a fact of life</p>	<p style="text-align: right;">Page 38</p> <p>1 in the business.</p> <p>2 Q. Now, this -- this plant as designed contains</p> <p>3 two units; is that correct?</p> <p>4 A. Correct.</p> <p>5 Q. Can you describe for the Court what "units"</p> <p>6 mean?</p> <p>7 A. Yes. So when we refer to nuclear units, we</p> <p>8 refer to reactors. So there are many plants around the</p> <p>9 country that have one unit. Some have two and some have</p> <p>10 three. And so the Bellefonte plant was designed to have</p> <p>11 two separate reactors, two units.</p> <p>12 Q. One called Unit 1 and one called Unit 2;</p> <p>13 correct?</p> <p>14 A. Common parlance, yes. Sometimes alpha and</p> <p>15 bravo but usually one and two.</p> <p>16 Q. Were you aware of or involved in any</p> <p>17 discussions regarding the expiration date for the</p> <p>18 construction permit on Unit 2?</p> <p>19 MR. LEMBKE: Same --</p> <p>20 MR. O'REAR: Go ahead.</p> <p>21 MR. LEMBKE: Same instruction.</p> <p>22 THE WITNESS: I don't recall any discussion</p> <p>23 specifically to the expiration of Unit 2's permit.</p> <p>24 BY MR. O'REAR:</p> <p>25 Q. Were you aware that TVA had asked the Nuclear</p>
<p style="text-align: right;">Page 39</p> <p>1 Regulatory Commission in 2014 to extend the completion</p> <p>2 date on the construction permit for Unit 2 to</p> <p>3 October 2017?</p> <p>4 A. I was aware that the extension had been asked</p> <p>5 for in 2014. I couldn't recall the later date for the</p> <p>6 end of the extension, but I knew the permit was</p> <p>7 requested to be extended, yes.</p> <p>8 Q. And after this contract with Nuclear</p> <p>9 Development was signed, were you aware that Nuclear</p> <p>10 Development asked TVA to send a letter to the Nuclear</p> <p>11 Regulatory Commission requesting action on the extension</p> <p>12 request?</p> <p>13 A. I don't recall that, no. Excuse me.</p> <p>14 (Deposition Exhibit 7 was marked.)</p> <p>15 BY MR. O'REAR:</p> <p>16 Q. I've handed you Exhibit 7 which has a cover</p> <p>17 e-mail on it from Mr. Larry Blust to James Chardos dated</p> <p>18 August 18, 2017.</p> <p>19 Do you have that before you?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And who is James Chardos?</p> <p>22 A. He was, and perhaps still is, an employee of</p> <p>23 TVA. At this time he was sort of the, for lack of a</p> <p>24 better word, caretaker for the Brunswick site. That's</p> <p>25 not the right title.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Was he the plant manager?</p> <p>2 A. I don't know what his title was.</p> <p>3 Q. You said Brunswick?</p> <p>4 A. I'm sorry.</p> <p>5 Q. Are you referring to Bellefonte?</p> <p>6 A. Bellefonte. Brunswick is another two-unit</p> <p>7 nuclear plant in the country. Yeah, Bellefonte,</p> <p>8 correct.</p> <p>9 Q. All right, sir. Can you identify the letter</p> <p>10 having -- can you identify whether or not you ever saw</p> <p>11 or were made aware of this letter that was proposed by</p> <p>12 Nuclear Development for TVA to send to the NRC regarding</p> <p>13 the extension of the completion date for the</p> <p>14 construction permit on Unit 2?</p> <p>15 A. I have no recollection of having seen this</p> <p>16 document.</p> <p>17 Q. Did you make any decisions on behalf of TVA to</p> <p>18 either grant or reject Nuclear Development's request</p> <p>19 that's expressed in this e-mail, in this letter?</p> <p>20 A. Not to my recollection, no.</p> <p>21 Q. Do you know who at TVA made the final decision</p> <p>22 with respect to this request?</p> <p>23 A. I do not.</p> <p>24 (Deposition Exhibit 8 was marked.)</p> <p>25 ---o0o---</p>

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<p style="text-align: right;">Page 41</p> <p>1 BY MR. O'REAR:</p> <p>2 Q. Directing your attention to Exhibit 8, which is</p> <p>3 a document from the records of TVA and a copy of an</p> <p>4 e-mail from Scott Vance to Mr. Blust and Mr. Chardos and</p> <p>5 others dated August 31, 2017.</p> <p>6 Do you have that before you?</p> <p>7 A. I do.</p> <p>8 Q. Mr. Vance is stated there as associate general</p> <p>9 counsel Nuclear Office of the General Counsel.</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. Now, that letter says TVA will not send a</p> <p>13 subsequent extension letter as requested; correct?</p> <p>14 A. That is what it says, yes.</p> <p>15 Q. Are you familiar --</p> <p>16 MR. LEMBKE: Object to the form. Lack of</p> <p>17 foundation.</p> <p>18 BY MR. O'REAR:</p> <p>19 Q. Were you familiar with this e-mail, or do you</p> <p>20 recall that this e-mail was sent?</p> <p>21 A. No. And I don't appear to be copied on it</p> <p>22 anywhere.</p> <p>23 Q. Okay.</p> <p>24 A. No.</p> <p>25 Q. I'm showing you this e-mail to see if it</p>	<p style="text-align: right;">Page 42</p> <p>1 refreshes your recollection about whether or not you</p> <p>2 recall who made the decision not to send a subsequent</p> <p>3 extension letter as requested by Nuclear Development?</p> <p>4 A. No, it doesn't.</p> <p>5 Q. Do you know anything about why the request for</p> <p>6 a new extension letter was rejected?</p> <p>7 A. I do not.</p> <p>8 Q. Were you aware in June of 2018 that Nuclear</p> <p>9 Development requested TVA to consent to the transfer of</p> <p>10 the construction permits to Nuclear Development?</p> <p>11 A. No recollection of that.</p> <p>12 (Deposition Exhibit 9 was marked.)</p> <p>13 BY MR. O'REAR:</p> <p>14 Q. I've handed you what's marked as Exhibit 9.</p> <p>15 The second e-mail in the middle of the first page is an</p> <p>16 e-mail from Tim Matthews, licensing counsel for Nuclear</p> <p>17 Development, to James Chardos dated June 19, 2018. And</p> <p>18 the text of that, as you can see, refers to the fact</p> <p>19 that Nuclear Development has drafted an application to</p> <p>20 the NRC for consent to the transfer that TVA was to</p> <p>21 sign.</p> <p>22 Do you see that?</p> <p>23 MR. LEMBKE: Object to the form. Misstates the</p> <p>24 evidence. It speaks for itself.</p> <p>25 MR. O'REAR: Well, I mean, it does speak for</p>
<p style="text-align: right;">Page 43</p> <p>1 itself.</p> <p>2 BY MR. O'REAR:</p> <p>3 Q. I'll just read it to you for the record:</p> <p>4 "Jim, as we discussed, Nuclear Development has</p> <p>5 developed a draft application to the NRC under 10 CFR</p> <p>6 50.80 for consent to transfer the Bellefonte</p> <p>7 construction permit and continuing their deferred plant</p> <p>8 status."</p> <p>9 Is it still your testimony that you were not</p> <p>10 aware that this request had been made by Nuclear</p> <p>11 Development to TVA?</p> <p>12 MR. LEMBKE: Object to the form. Lack of</p> <p>13 foundation.</p> <p>14 THE WITNESS: I have no knowledge of the</p> <p>15 information.</p> <p>16 MR. LEMBKE: And object to the form. It</p> <p>17 misstates the evidence.</p> <p>18 THE WITNESS: I have no knowledge of the</p> <p>19 information in this document.</p> <p>20 BY MR. O'REAR:</p> <p>21 Q. Were you ever aware of Nuclear Development's</p> <p>22 request to TVA to consent to the transfer of the</p> <p>23 construction permits?</p> <p>24 MR. LEMBKE: Object to the form. Lack of</p> <p>25 foundation.</p>	<p style="text-align: right;">Page 44</p> <p>1 THE WITNESS: I have no recollection of that.</p> <p>2 BY MR. O'REAR:</p> <p>3 Q. You -- were you aware that on August the 14th,</p> <p>4 2018, a Nuclear Regulatory Commission conducted a public</p> <p>5 meeting regarding the Bellefonte site and the issue of</p> <p>6 the construction permits regarding that site?</p> <p>7 MR. LEMBKE: Object to the form. Lack of</p> <p>8 foundation.</p> <p>9 THE WITNESS: I recall that there was an NRC</p> <p>10 public meeting in that time period. I wouldn't know the</p> <p>11 specific date. I don't recall the construction permits</p> <p>12 being discussed, but I do know that a public meeting</p> <p>13 about the plant was held.</p> <p>14 (Deposition Exhibit 10 was marked.)</p> <p>15 BY MR. O'REAR:</p> <p>16 Q. You have before you Exhibit 10. It shows at</p> <p>17 the top that this was an e-mail from Mr. Justin</p> <p>18 Maierhofer to you, Ms. Quirk, and others dated</p> <p>19 August 14, 2018. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Did you review this document yesterday in</p> <p>22 preparation?</p> <p>23 MR. LEMBKE: I instruct you not to answer that</p> <p>24 question. That will require revealing attorney work</p> <p>25 product.</p>

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<p style="text-align: right;">Page 45</p> <p>1 BY MR. O'REAR:</p> <p>2 Q. This is a document produced from the records of</p> <p>3 TVA. Did you receive this e-mail?</p> <p>4 A. Actually, yes, I remember receiving this</p> <p>5 e-mail.</p> <p>6 Q. And is this a report from Mr. Russ Bell with</p> <p>7 the Nuclear Energy Institute to others who then</p> <p>8 forwarded this to you regarding what transpired at the</p> <p>9 NRC public meeting on August 14, 2018, the same date of</p> <p>10 the e-mail to you?</p> <p>11 A. That is what it appears to be, yes.</p> <p>12 Q. And who is -- who is Justin Maierhofer?</p> <p>13 A. Justin Maierhofer.</p> <p>14 Q. Maierhofer.</p> <p>15 A. It's a hard name -- was -- is the head of</p> <p>16 public affairs/governmental relations at TVA.</p> <p>17 Q. And so you read this e-mail when it came in;</p> <p>18 right? You said you recalled it?</p> <p>19 A. I do recall it, yes.</p> <p>20 Q. Do you see on the second page of this e-mail</p> <p>21 that Mr. Bell reported that "Nuclear Development will</p> <p>22 begin engineering and licensing work in parallel upon</p> <p>23 closure of the sale"?</p> <p>24 A. I'm sorry, I got lost here. Tell me where you</p> <p>25 are again.</p>	<p style="text-align: right;">Page 46</p> <p>1 Q. Okay. Look at the second page and the third</p> <p>2 bullet point on the second page.</p> <p>3 A. I see the bullet point.</p> <p>4 Q. Okay. And did you understand that to mean that</p> <p>5 Nuclear Development would seek licensing of the</p> <p>6 construction permits through NRC after the closing of</p> <p>7 the sale of Bellefonte?</p> <p>8 A. So I recall this e-mail. I don't recall the</p> <p>9 content of it nor do I recall thinking very hard about</p> <p>10 what was in it. So on that specific point, do I</p> <p>11 remember that? No.</p> <p>12 Q. Do you contest that the e-mail says that?</p> <p>13 MR. LEMBKE: Object to the form. That</p> <p>14 misstates the evidence.</p> <p>15 THE WITNESS: I would say that Exhibit 10 says</p> <p>16 what it says.</p> <p>17 BY MR. O'REAR:</p> <p>18 Q. All right, sir. There's a reference in this</p> <p>19 e-mail from Mr. Bell to the fact that Nuclear</p> <p>20 Development was represented by Bill McCollum at that</p> <p>21 meeting. Do you see that reference on that first page?</p> <p>22 A. Yes.</p> <p>23 Q. And tell the Court who Bill McCollum is.</p> <p>24 A. Bill McCollum, I believe, was an employee of</p> <p>25 Nuclear Development, was previously a executive at TVA,</p>
<p style="text-align: right;">Page 47</p> <p>1 and prior to that was a executive at Duke Energy.</p> <p>2 Q. Was he the chief operating officer at TVA?</p> <p>3 A. He was gone by the time I got there, but I</p> <p>4 believe that was his title.</p> <p>5 Q. So he left TVA before you arrived in 2013?</p> <p>6 A. I got there at the beginning of 2013, and he</p> <p>7 was no longer there.</p> <p>8 Q. Have you publicly criticized any of the</p> <p>9 comments made by Mr. McCollum regarding Bellefonte?</p> <p>10 A. I don't know if I've criticized his comments on</p> <p>11 Bellefonte. I've criticized some of his other comments.</p> <p>12 Q. What others have you criticized?</p> <p>13 A. The comment that Memphis should leave TVA and</p> <p>14 not go to Nuclear Development but go to MISO or</p> <p>15 somewhere else, because any deal is better than a deal</p> <p>16 they're getting from TVA.</p> <p>17 Q. Do you dislike Mr. McCollum?</p> <p>18 A. I don't know him. I've met him. I don't have</p> <p>19 a personal opinion of him. I've met him briefly several</p> <p>20 times.</p> <p>21 Q. Were you upset with him about those comments?</p> <p>22 A. I was.</p> <p>23 Q. Do you recall that TVA received a summary of</p> <p>24 the August 14, 2018, public meeting from the NRC?</p> <p>25 A. I do not recall that, no.</p>	<p style="text-align: right;">Page 48</p> <p>1 (Deposition Exhibit 11 was marked.)</p> <p>2 BY MR. O'REAR:</p> <p>3 Q. Let me show you what's been marked as</p> <p>4 Exhibit 11.</p> <p>5 MR. O'REAR: Yeah, that's it.</p> <p>6 BY MR. O'REAR:</p> <p>7 Q. Again, this is a document produced from the</p> <p>8 files of TVA. Can you identify it as the summary issued</p> <p>9 by the National Regulatory Commission on September 4th,</p> <p>10 2018, of the comments made at the public meeting on</p> <p>11 August 14, 2018?</p> <p>12 A. It says it's a summary of a public presubmittal</p> <p>13 meeting with Nuclear Development, LLC, on August 14,</p> <p>14 2018. It's dated September the 4th, 2018.</p> <p>15 Q. And I believe you said you did not recall that</p> <p>16 the meeting involved a discussion of the transfer, but</p> <p>17 this first paragraph says specifically "to discuss</p> <p>18 issues associated with the submittal of a request to</p> <p>19 transfer the deferred construction permit for Bellefonte</p> <p>20 Nuclear Generating Station Units 1 and 2."</p> <p>21 MR. LEMBKE: Objection. Lack of foundation.</p> <p>22 BY MR. O'REAR:</p> <p>23 Q. Do you see that?</p> <p>24 MR. LEMBKE: Same objection.</p> <p>25 THE WITNESS: The document says, "The purpose</p>

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<p style="text-align: right;">Page 49</p> <p>1 of the meeting was to introduce the members of NDL, LLC, 2 and to discuss issues associated with the submittal of a 3 request to transfer the deferred construction permit for 4 Bellefonte Nuclear Station." Yes. 5 BY MR. O'REAR: 6 Q. And if you would turn over to the list of 7 attendees at this meeting, which is five pages over. 8 Do you see that? 9 A. I do. 10 MR. LEMBKE: Objection. Lack of foundation. 11 THE WITNESS: I see the -- 12 MR. O'REAR: What's the lack of foundation? 13 MR. LEMBKE: You've not established that he's 14 ever seen this document before. 15 MR. O'REAR: I'm asking. 16 MR. LEMBKE: And it's not appropriate to put a 17 document in front of a witness -- 18 MR. O'REAR: Certainly. 19 MR. LEMBKE: -- and ask him for -- to testify 20 to something if you haven't established that he's ever 21 seen it before. 22 MR. O'REAR: Well, I'm asking him if he can 23 identify some of the information on the document. 24 MR. LEMBKE: Same objection. That's 25 inappropriate if he's never seen it before.</p>	<p style="text-align: right;">Page 50</p> <p>1 BY MR. O'REAR: 2 Q. All right. Mr. -- Mr. Johnson, could you look 3 at the list of attendees? Do you have that there? 4 A. I do. 5 Q. Do you see the list of attendees on behalf of 6 TVA at this meeting? 7 MR. LEMBKE: Objection. Lack of foundation. 8 THE WITNESS: This list contains one, two, 9 three, four, five names from -- that says TVA by them, 10 yes. 11 BY MR. O'REAR: 12 Q. Okay, sir. And we've already discussed 13 Mr. Chardos. He's the first name; correct? 14 A. Correct. 15 MR. LEMBKE: Same objection. 16 BY MR. O'REAR: 17 Q. Who is Ryan Dreke? 18 A. I do not know. 19 Q. Who is Aaron Henderson? 20 A. Aaron works in nuclear and I believe in nuclear 21 licensing, at least he did when I was there. 22 Q. Who is Dan -- excuse me -- John Lockaby? 23 A. I do not know. 24 Q. Who is Dan Stout? 25 A. Dan Stout is in the nuclear organization, was</p>
<p style="text-align: right;">Page 51</p> <p>1 when I was there, and when I was there was focused on 2 small modular reactors. 3 Q. Did you receive any reports from anyone on this 4 meeting other than what's referenced in the e-mail, 5 Exhibit 10, or this summary issued by the NRC as 6 Exhibit 11? 7 MR. LEMBKE: Objection. Lack of foundation. 8 You haven't established that he ever received 9 Exhibit 11. So it mis -- 10 BY MR. O'REAR: 11 Q. Did you receive anything -- 12 MR. LEMBKE: It's a compound question. 13 BY MR. O'REAR: 14 Q. Did you receive any information reporting on 15 this meeting besides Exhibit 10? 16 A. To the best of my recollection, no. 17 Q. Did you have any discussions with anyone 18 concerning what was stated at this meeting about either 19 Exhibit 10 or any other information you may have had 20 about the meeting? 21 A. I don't have any recollection of that. 22 Q. Were you aware that within a week of this 23 meeting with the NRC that there was a letter issued by 24 TVA expressing its intent to close the contract on the 25 contracted closing date --</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. LEMBKE: Object. 2 BY MR. O'REAR: 3 Q. -- with Nuclear Development? 4 MR. LEMBKE: Objection. Lack of foundation. 5 THE WITNESS: I have no such recollection. 6 MR. O'REAR: I'm trying to determine if he is 7 aware of that, Matt. 8 THE WITNESS: I have no recollection of that. 9 (Deposition Exhibit 12 was marked.) 10 MR. BLUST: 12 or 13. 12; right? 11 BY MR. O'REAR: 12 Q. Directing your attention to Exhibit 12 before 13 you which is a letter from Mr. Aaron Nix of TVA to 14 Larry Blust dated August 21, 2018. 15 Did you ever see this letter or were you ever 16 made aware that TVA represented on this date that it was 17 working toward completion of the transaction documents 18 in contemplation of the closing? 19 A. I have no recollection of this document or 20 being aware of this document. 21 Q. Did you in your own mind think in August of 22 2018 that TVA would close the transaction with Nuclear 23 Development? 24 A. We were working toward closing it. At some 25 point during this process, the issue of the permits came</p>

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<p style="text-align: right;">Page 53</p> <p>1 to the fore, and I can't remember exactly what that was, 2 but we were moving toward closing. 3 Q. So it is your best recollection that in 4 August 2018, as far as your intent was concerned, that 5 the transaction would be closed? 6 A. Yes. If all the conditions were met. 7 Q. All right, sir. Were you aware that shortly 8 after this letter which is marked as Exhibit 12 that 9 Nuclear Development requested of TVA to agree to an 10 extension of the closing date for six months to 11 May 14th, 2019? 12 A. I don't recall the specific date, but I do 13 recall there was a request for a six-month extension, 14 yes. 15 (Deposition Exhibit 13 was marked.) 16 BY MR. O'REAR: 17 Q. Direct your attention to Exhibit 13. Does this 18 refresh your recollection that there was a request on 19 August 29, 2018, by Nuclear Development to extend the 20 closing date to May 14, 2019? 21 A. I don't have any recollection of having seen 22 this document, but I do recall about this time frame a 23 request for a six-month extension into May, yes. 24 Q. Did you ever discuss this request with 25 Mr. Franklin Haney of Nuclear Development?</p>	<p style="text-align: right;">Page 54</p> <p>1 A. Yes. 2 Q. Tell me what you recall about that. 3 A. Let me -- I discussed several times with him 4 requests for extension, yeah. So. . . 5 Q. The request for extension of the six-month is 6 represented in Exhibit 13? 7 A. I don't remember specifically whether we talked 8 about the six-month. I know we talked several times 9 about extensions. It may have been the six-month. It 10 may have been the shorter extension that we actually 11 granted. But there were discussions about extension. 12 Q. Now, the shorter extension you're referring to, 13 that was requested by TVA; is that correct? 14 A. My recollection of that is there was a request 15 for an extension sometime later than this that I sat on 16 for a little bit as I was considering it. And so since 17 I had used up some of the time, I wanted to make sure 18 that it was fair, that I gave some of it back. So that 19 was the reason for the two-week extension later in, I 20 guess, November. 21 Q. So the reason for giving the two-week extension 22 was that you had sat on the Nuclear Development request 23 for a six-month extension for a period of time and you 24 wanted to give some time back on that? 25 A. "Sat on" was the wrong words.</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. I thought you said "sat on." 2 A. I did say, but what I meant was I was seriously 3 considering whether we should give the extension or not, 4 and it took a little bit of time for me to work through 5 that and discuss it. And so I thought it would be a 6 fair thing to give a little extension because the 7 discussion of the bigger extension took a while. 8 Q. The little extension was an extension from 9 November 14 to November 30; is that correct? 10 A. I remember it was roughly a two-week extension, 11 so that sounds about right. 12 Q. And the reason for that was to give some time 13 back because you had been considering their extension 14 and thought it was fair to give them an additional 15 16 days? 16 A. That's right. 17 MR. LEMBKE: Objection. Asked and answered. 18 BY MR. O'REAR: 19 Q. Does TVA have an executive management council? 20 A. I don't know if they do today, but we had that 21 then, yes. 22 Q. So did TVA have an executive management council 23 in August of 2018? 24 A. Yes. 25 Q. And what were the functions or purpose of the</p>	<p style="text-align: right;">Page 56</p> <p>1 executive management council? 2 A. So it was the senior executives of the 3 organization, and the purpose of the council was to make 4 sure we were aligned, we had all the information we 5 needed as an organization, to review business 6 performance, and direct and lead the organization. 7 Q. And in August of 2018 who was on the executive 8 management council? 9 A. I'll see if I can recreate this. Sherry Quirk, 10 Mike Scaggs. 11 Q. Who is Mike Scaggs? 12 A. Mike Scaggs at the time was the chief operating 13 officer. 14 Van Wardlaw. 15 Q. Who is he? 16 A. The senior VP of external relations and 17 customer relations. 18 Sue Collins, the head -- 19 Q. Who is she? 20 A. Head of HR. 21 I'm going around the table here from memory. 22 Janet Brewer who was the SVP of communications; 23 Justin Maierhofer, VP of external affairs; John Thomas, 24 CFO. 25 I hope I haven't missed anybody. It would be</p>

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<p style="text-align: right;">Page 57</p> <p>1 embarrassing. But. . . I think that's it.</p> <p>2 Q. Now, did you use the executive management</p> <p>3 council as some sort of sounding board? Or just what</p> <p>4 authority did it have other than to provide a medium for</p> <p>5 discussion of TVA's business performance?</p> <p>6 A. So everybody -- every member of that group</p> <p>7 obviously had pretty direct authority to run a billing</p> <p>8 part of the business as a senior executive. It was a</p> <p>9 group we used as a sounding board to set direction,</p> <p>10 strategy issues, performance issues, all kinds of</p> <p>11 things.</p> <p>12 Q. And did each one of those members report to</p> <p>13 you?</p> <p>14 A. Yes.</p> <p>15 Q. And you in turn reported to the board of</p> <p>16 directors?</p> <p>17 A. Correct.</p> <p>18 Q. Did you discuss this request for a six-month</p> <p>19 extension with the executive management council?</p> <p>20 A. I don't really recall.</p> <p>21 Q. Who are the executive management council AAs?</p> <p>22 Are you familiar with that term?</p> <p>23 A. I believe that term refers to administrative</p> <p>24 assistants.</p> <p>25 Q. And are those the assistants of each of the</p>	<p style="text-align: right;">Page 58</p> <p>1 members that you described?</p> <p>2 A. Yes.</p> <p>3 Q. And are the administrative assistants also</p> <p>4 members of the executive management council?</p> <p>5 A. No.</p> <p>6 Q. Do the administrative assistants get</p> <p>7 communications that are directed to the members of the</p> <p>8 executive management council?</p> <p>9 A. I don't know the answer to that.</p> <p>10 Q. Who is the chair of the executive management</p> <p>11 council or who was it in August of 2018?</p> <p>12 A. Well, we didn't have a structure like that, but</p> <p>13 as the CEO I guess I was the head person.</p> <p>14 Q. Did the executive management council report</p> <p>15 directly to the board of directors?</p> <p>16 A. No. They reported to me. The nuclear officer,</p> <p>17 which at that time would have been Mike Scaggs, would</p> <p>18 have also had a dotted line to the board, but in general</p> <p>19 they reported generally to me.</p> <p>20 Q. Did you ever discuss the Nuclear Development</p> <p>21 request for a six-month extension with the board of</p> <p>22 directors?</p> <p>23 A. I'm certain I must have, but I don't have any</p> <p>24 recollection of how or when.</p> <p>25 Q. Did you ever discuss it at an official board</p>
<p style="text-align: right;">Page 59</p> <p>1 meeting?</p> <p>2 A. I have no recollection of doing that.</p> <p>3 Q. Did you ever discuss that extension at any</p> <p>4 committee meetings of the board?</p> <p>5 A. I don't recall specifically, but that is the</p> <p>6 kind of thing I would have talked to the board about.</p> <p>7 Q. But you have no recollection that any of that</p> <p>8 discussion ever made it to the level of an official</p> <p>9 board meeting; is that correct?</p> <p>10 A. I think that probably is correct.</p> <p>11 Q. Did you ever discuss this extension with any</p> <p>12 individual board members?</p> <p>13 A. Again, I'm sure I must have because this would</p> <p>14 have been the kind of thing that I did discuss with the</p> <p>15 board, but I don't have a recollection of who or when.</p> <p>16 Q. To your knowledge, was there any record kept of</p> <p>17 any of your discussion with any of the board members</p> <p>18 regarding this request for a six-month extension?</p> <p>19 A. I don't recall.</p> <p>20 Q. To the best of your recollection, which board</p> <p>21 members did you discuss this with?</p> <p>22 MR. LEMBKE: Object to the form. Asked and</p> <p>23 answered.</p> <p>24 THE WITNESS: Again, I don't recall</p> <p>25 specifically who I did discuss it with. Again, this is</p>	<p style="text-align: right;">Page 60</p> <p>1 the kind of thing I clearly would have talked to the</p> <p>2 board about, but the specifics of that I don't recall.</p> <p>3 BY MR. O'REAR:</p> <p>4 Q. And when you say you "clearly talked to the</p> <p>5 board about," are you talking about at an official</p> <p>6 meeting or are you talking about one-on-one</p> <p>7 conversations?</p> <p>8 A. Not an official meeting probably because those</p> <p>9 are public and you don't typically discuss proprietary</p> <p>10 confidential commercial information, which this would</p> <p>11 have been. So one-on-one or in committees or in the</p> <p>12 committee meetings.</p> <p>13 Q. Was there any record kept of the discussion</p> <p>14 among the executive management council about this?</p> <p>15 A. There were no official minutes of that group,</p> <p>16 and so I don't know otherwise whether people have</p> <p>17 records or not.</p> <p>18 Q. Personal notes you mean? Is that what you --</p> <p>19 A. Any kind of -- any kind of record.</p> <p>20 Q. Did the -- did that council ever prepare formal</p> <p>21 minutes or formal notes of meetings?</p> <p>22 A. In my time there, no.</p> <p>23 Q. Were members instructed not to keep notes of</p> <p>24 the meetings?</p> <p>25 A. No.</p>

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<p style="text-align: right;">Page 61</p> <p>1 Q. Did TVA ultimately deny the Nuclear Development 2 request for a six-month extension? 3 A. Yes. 4 Q. And did you make that final decision? 5 A. Yes. 6 Q. How would that extension have hurt the TVA? 7 A. Well, when we started the process, the one -- 8 one area of concern for us was open-ended commitments. 9 We wanted to do something on the site. We wanted it to 10 happen in a fairly expeditious manner. 11 I didn't think it would be a six-month delay. 12 I didn't think there was a possibility that -- well, 13 there's always a possibility, but a reality of getting 14 the permits in six months. I've actually sought permits 15 in the past. Typically it's about a two-year process. 16 And so I was concerned about the fact that we had an 17 open-ended process that might never conclude. 18 Q. Well, the request for six months to May 14, 19 2019, it was not open-ended, was it? 20 A. No. But the ability to get the permits in a 21 six-month to me was near impossible just given the 22 history of the NRC and my own experience, and so I was 23 thinking six months is going to be another six months 24 and it's going to be another year. 25 So, to me, it looked like the potential for an</p>	<p style="text-align: right;">Page 62</p> <p>1 ongoing, open-ended, unmet condition. 2 Q. Were you concerned about not receiving the 3 90, \$89 million balance of the purchase price if this 4 did not close on November 30th, 2018? 5 A. I didn't follow your question. Could you try 6 again? 7 Q. Were you concerned that if you didn't grant 8 this extension, that the sale would not close on 9 November 30th, 2018, and TVA would not receive the 10 \$89 million balance on the purchase price? 11 A. I was not concerned about whether we would 12 receive the balance of the purchase price or not. I was 13 concerned that we follow the terms of the contract and 14 legal requirements. 15 Q. Were you concerned about the -- TVA's goal 16 encouraging economic development in the Bellefonte area 17 if the transaction did not close? 18 A. No. I was concerned that if we didn't come to 19 some conclusion of the transaction, that goal would be 20 harmed even more. 21 Q. What do you mean by that? 22 A. Well, if we have two or three more years after 23 November trying to get permits and nothing's happening 24 at the site, that is not going in the right direction on 25 economic development in that region.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. Did you anticipate at the end of August 2018 2 litigation with Nuclear Development? 3 MR. LEMBKE: At the end of August 2018? 4 MR. O'REAR: Yes. 5 MR. LEMBKE: Mr. Johnson, to the extent this 6 would require you to reveal attorney-client 7 communications with TVA's counsel, you should not 8 disclose that information. 9 THE WITNESS: I don't have any recollection of 10 being personally concerned at that time. As we got 11 closer to the event, I certainly thought we'd end up 12 here in a deposition today, yes. 13 BY MR. O'REAR: 14 Q. "The event" meaning the closing date? 15 A. Yes. 16 Q. But in August of 2018 you were not anticipating 17 that there might be litigation with Nuclear Development 18 over this contract, were you? 19 MR. LEMBKE: Mr. Johnson, I give you the same 20 instruction. 21 THE WITNESS: I can't recall that being at the 22 top of mind in August. 23 BY MR. O'REAR: 24 Q. All right, sir. 25 A. But, you know, we may have been thinking about</p>	<p style="text-align: right;">Page 64</p> <p>1 it. I just don't have any recollection of that here. 2 Q. Do you recall any discussions at the end of 3 August or at the end of August of 2018 about TVA suing 4 Nuclear Development? 5 MR. LEMBKE: Mr. Johnson, I give you the same 6 instruction. 7 THE WITNESS: I have no recollection of that. 8 BY MR. O'REAR: 9 Q. Do you have any recollection of any discussions 10 at that time about Nuclear Development suing TVA? 11 MR. LEMBKE: Mr. Johnson, I give you the same 12 instruction. 13 THE WITNESS: I have no such recollection. 14 MR. LEMBKE: This is a good time for a short 15 break. 16 MR. O'REAR: Okay. I'm kind of in the middle 17 of a subject. I'd like to finish that. If we could 18 have a few more minutes. 19 MR. LEMBKE: All right. 20 BY MR. O'REAR: 21 Q. Did you ever discuss at a board meeting of TVA 22 your expectation or anticipation that there would be 23 litigation with Nuclear Development over this contract? 24 A. I have no recollection of such a comment. 25 Q. Do you know who Mary Margaret Painter is?</p>

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<p style="text-align: right;">Page 65</p> <p>1 A. Yes, I do.</p> <p>2 Q. Who is that?</p> <p>3 A. She is the, at least was when I left, the</p> <p>4 assistant to the board of directors. So she coordinated</p> <p>5 the board activities.</p> <p>6 Q. And who is Rebecca Chunn Tolene?</p> <p>7 A. She when I left was the VP of supply chain.</p> <p>8 Had various positions while I was there.</p> <p>9 Q. Did you ever send an e-mail to either one of</p> <p>10 those women regarding anticipation of litigation with</p> <p>11 Nuclear Development?</p> <p>12 A. I don't have any recollection of that. I</p> <p>13 certainly e-mailed both of them frequently, but I don't</p> <p>14 have any such recollection of that e-mail.</p> <p>15 MR. O'REAR: Okay. Do you want to take a break</p> <p>16 now?</p> <p>17 MR. LEMBKE: Okay. Great. Thank you.</p> <p>18 THE VIDEOGRAPHER: The time is 10:16. We're</p> <p>19 going off the record.</p> <p>20 (Break taken at 10:16 a.m.)</p> <p>21 THE VIDEOGRAPHER: The time is 10:27. We're</p> <p>22 back on the record.</p> <p>23 BY MR. O'REAR:</p> <p>24 Q. You commented earlier you were upset with</p> <p>25 Mr. McCollum for making comments to the City of Memphis</p>	<p style="text-align: right;">Page 66</p> <p>1 that they should leave TVA even if they didn't go to</p> <p>2 Nuclear Development; is that correct?</p> <p>3 A. That is correct.</p> <p>4 Q. Okay. And do you recall seeing a press -- some</p> <p>5 press news coverage regarding Nuclear Development's</p> <p>6 meeting with the City of Memphis on October the 9th,</p> <p>7 2018? Would that have been the meeting you're referring</p> <p>8 to?</p> <p>9 A. I don't recall the date. It was in that time</p> <p>10 frame, but I don't -- I don't recall the date.</p> <p>11 Q. After you -- how did you learn of those</p> <p>12 comments?</p> <p>13 A. They were reported to me by people who were at</p> <p>14 the meeting, and also then I did see some news coverage</p> <p>15 of it.</p> <p>16 Q. After you learned of that, did you ask for a</p> <p>17 meeting with Mr. Franklin Haney --</p> <p>18 A. I believe --</p> <p>19 Q. -- and Mr. Blust regarding this matter?</p> <p>20 A. Pardon me. I believe they asked for a meeting</p> <p>21 with me.</p> <p>22 Q. You didn't ask for that meeting?</p> <p>23 A. I don't recall, but there was a meeting, yeah.</p> <p>24 Q. And did you want to discuss with them issues</p> <p>25 regarding the City of Memphis before you made a decision</p>
<p style="text-align: right;">Page 67</p> <p>1 on whether or not to grant the extension that they had</p> <p>2 requested to May of 2019?</p> <p>3 A. Would you repeat that question?</p> <p>4 Q. Did you want to discuss with them issues over</p> <p>5 the City of Memphis and its role as a customer of TVA</p> <p>6 and their solicitation of Memphis as a customer for</p> <p>7 Nuclear Development before you made the decision to</p> <p>8 extend the closing to May of 2019?</p> <p>9 MR. LEMBKE: Object to the form. Compound</p> <p>10 question.</p> <p>11 THE WITNESS: I wanted to discuss with the</p> <p>12 people you named the behavior of Mr. McCollum in Memphis</p> <p>13 which was designed not to further Nuclear Development's</p> <p>14 interest but solely to harm TVA, which I could not</p> <p>15 understand in the context of a group that was also</p> <p>16 trying to -- actually offering us partnership at the</p> <p>17 same time. That's what I wanted to discuss.</p> <p>18 BY MR. O'REAR:</p> <p>19 Q. Did you ask for a record of the presentation</p> <p>20 made by Nuclear Development at that meeting with</p> <p>21 Memphis?</p> <p>22 A. I don't recall.</p> <p>23 Q. Did you ever see a record of or a transcript or</p> <p>24 a recording --</p> <p>25 A. I --</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. -- of what was said at that meeting?</p> <p>2 A. I did see a transcript of the meeting, yes.</p> <p>3 Q. Who gave you that?</p> <p>4 A. I don't recall.</p> <p>5 Q. Now, the contract you had with Nuclear</p> <p>6 Development did not prohibit Nuclear Development from</p> <p>7 soliciting the City of Memphis or any other TVA customer</p> <p>8 as a potential customer for Nuclear Development, did it?</p> <p>9 A. That's correct.</p> <p>10 Q. And you're saying you weren't upset with the</p> <p>11 solicitation of Memphis as a customer of Nuclear</p> <p>12 Development; you were upset with comments suggesting</p> <p>13 that even if Memphis did not go with Nuclear</p> <p>14 Development, they should find another source of power</p> <p>15 besides TVA?</p> <p>16 A. You know, I wasn't excited about losing a</p> <p>17 customer to Nuclear Development, but I always knew and</p> <p>18 talked to the board about the fact that there was</p> <p>19 competition. My real concern, my irritation was the</p> <p>20 behavior of a retired TVA executive trying to harm the</p> <p>21 organization for no benefit to the organization he</p> <p>22 worked for.</p> <p>23 Q. Were you concerned at this time that Memphis</p> <p>24 was seriously considering going with Nuclear</p> <p>25 Development?</p>

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<p style="text-align: right;">Page 69</p> <p>1 A. I was concerned every day about every customer 2 because TVA does not have a monopoly. The contractual 3 relationship is what binds people. Was I particularly 4 concerned about this? No. Because I always thought our 5 value proposition was better, TVA's value proposition. 6 Q. So you -- you weren't concerned that Memphis 7 was seriously considering with TVA -- with Nuclear 8 Development? 9 MR. LEMBKE: Objection. Asked and answered. 10 THE WITNESS: I was concerned that any customer 11 would leave TVA because the impact of that is to spread 12 costs on other people. And so -- 13 BY MR. O'REAR: 14 Q. Memphis was your largest customer at that time; 15 correct? 16 A. I believe that's right. 17 Q. Did you discuss with the board at any official 18 board meeting your concern that Memphis was seriously 19 considering leaving TVA and going with Nuclear 20 Development? 21 A. I don't recall specifically. The official 22 board meetings are transcribed and videoed, and so my 23 comments would be on the record there. I certainly 24 spoke to the board frequently about the potential loss 25 of any customer and how important it was to keep all</p>	<p style="text-align: right;">Page 70</p> <p>1 customers, including Memphis. 2 Q. Did you ever discuss with board members at 3 committee meetings specifically your concern that City 4 of Memphis might go with Nuclear Development? 5 A. I don't recall a concern being discussed about 6 specifically them -- Memphis going to Nuclear 7 Development, but a concern about Memphis generally 8 leaving the TVA system, I certainly did talk to them 9 about that. 10 Q. And what forum were those discussions held? 11 A. It would have been in committee meetings. 12 Q. Okay. What committees would those have been? 13 A. Probably the finance committee would have been 14 my guess. That's usually where the business matters are 15 discussed. 16 Q. And is that committee comprised of board 17 members only? 18 A. All committees at TVA are board members only, 19 yeah. 20 Q. Does your CFO attend the finance committee 21 meetings of the board? 22 A. Typically when I was there, yes. 23 Q. And were these discussions that you had that 24 you've just described with committee -- at committee 25 meetings of the board, probably the finance committee,</p>
<p style="text-align: right;">Page 71</p> <p>1 were they after this presentation was made by 2 Mr. McCollum before the City of Memphis? 3 A. So, as I said, these discussions about all 4 customers happened all the time. One of the key focus 5 areas was retaining customers, making customers happy. 6 The specifics of when we were talking about Memphis, I 7 can't give you the exact time frame. 8 Q. Well, I'm just asking you if they were before 9 or after you learned of this presentation being made by 10 Nuclear Development to Memphis. 11 A. And I think my answer was I don't recall 12 exactly when it was. 13 Q. You don't know. Was it around that time 14 period? 15 A. I don't know. 16 Q. Did the board committee meetings result in 17 minutes being prepared? 18 A. Typically, yes. 19 Q. Were you aware that in mid-October Nuclear 20 Development's licensing counsel sent a proposed consent 21 letter to TVA whereby TVA, if it signed that letter, 22 would consent to the transfer of the construction 23 permits to Nuclear Development? 24 MR. LEMBKE: Objection. Vague as to year and 25 lack of foundation.</p>	<p style="text-align: right;">Page 72</p> <p>1 BY MR. O'REAR: 2 Q. Okay. How about October 18th, 2018? 3 A. I don't have any recollection of such a letter. 4 MR. BLUST: What's the number? 5 MR. O'REAR: 14. 6 (Deposition Exhibit 14 was marked.) 7 BY MR. O'REAR: 8 Q. You have Exhibit 14 before you? 9 A. Yes, sir. 10 Q. Okay. This on the second page reflects an 11 e-mail on October 18, 2018, from Tim Matthews, who is 12 licensing counsel for Nuclear Development, to 13 Chris Chandler in the legal department and others 14 including Mr. Shea. 15 MR. BLUST: I think we got a different exhibit 16 here. Which one you got? 17 MR. LEMBKE: We've got the one in front of the 18 witness. 19 MR. BLUST: Which is what? 20 MR. O'REAR: Let me just make sure it's the one 21 I'm referring. 22 MR. BLUST: You got the one in front of the 23 witness. Why do I have a different one here? I don't 24 know. 25 MR. O'REAR: I don't know.</p>

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<p style="text-align: right;">Page 73</p> <p>1 MR. BLUST: What's the one you have?</p> <p>2 MR. O'REAR: 14. Let me finish this.</p> <p>3 MR. BLUST: What is it? I don't know what it</p> <p>4 is, but okay.</p> <p>5 MR. O'REAR: I forgot where I was in the</p> <p>6 question now.</p> <p>7 BY MR. O'REAR:</p> <p>8 Q. I'm directing your attention to the e-mail on</p> <p>9 the same page. And it's from Mr. Matthews, as I</p> <p>10 described, to Chris Chandler with TVA. And you'll see</p> <p>11 it attaches on the last page a form of a letter for TVA</p> <p>12 to sign to consent to the requested transfer of the two</p> <p>13 construction permits.</p> <p>14 Do you see that?</p> <p>15 MR. LEMBKE: Objection. Lack of foundation.</p> <p>16 THE WITNESS: I see a draft of a letter on the</p> <p>17 last page to the NRC, yes.</p> <p>18 BY MR. O'REAR:</p> <p>19 Q. Okay. And were you aware that such a specific</p> <p>20 request had been made of TVA by Nuclear Development?</p> <p>21 A. I don't have any recollection of that.</p> <p>22 Q. Do you have any recollection of making a</p> <p>23 decision on behalf of TVA to deny or reject the request</p> <p>24 from Nuclear Development that TVA consent to the</p> <p>25 transfer of the construction permits?</p>	<p style="text-align: right;">Page 74</p> <p>1 A. I don't have any recollection of that.</p> <p>2 Q. You don't -- did you make a decision on that</p> <p>3 request?</p> <p>4 A. I don't recall making such a decision.</p> <p>5 Q. Do you know who made that decision to deny that</p> <p>6 request?</p> <p>7 MR. LEMBKE: Objection. Lack of foundation.</p> <p>8 THE WITNESS: I do not.</p> <p>9 BY MR. O'REAR:</p> <p>10 Q. Is it your testimony today that you did not</p> <p>11 approve of any such decision?</p> <p>12 A. It's my testimony today --</p> <p>13 MR. LEMBKE: Same objection.</p> <p>14 THE WITNESS: -- that I don't have any</p> <p>15 recollection of doing so.</p> <p>16 BY MR. O'REAR:</p> <p>17 Q. Do you know any reason why, if that decision</p> <p>18 was made, why TVA would not grant a request for consent</p> <p>19 of transfer of the construction permits?</p> <p>20 MR. LEMBKE: Objection. Lack of foundation.</p> <p>21 Calls for speculation.</p> <p>22 And, Mr. Johnson, to the extent that would</p> <p>23 require you to disclose attorney-client communications</p> <p>24 with TVA counsel, you should not answer it.</p> <p>25 THE WITNESS: I don't have any recollection of</p>
<p style="text-align: right;">Page 75</p> <p>1 the reasoning.</p> <p>2 BY MR. O'REAR:</p> <p>3 Q. Do you recall a meeting between or among you,</p> <p>4 Sherry Quirk, Franklin Haney, and Larry Blust in your</p> <p>5 office in October of 2018?</p> <p>6 A. Yes.</p> <p>7 Q. Can you tell us what the subject of that</p> <p>8 meeting was?</p> <p>9 A. As I recall, the subject was to talk about why</p> <p>10 Nuclear Development's representative was trying to hurt</p> <p>11 TVA with no benefit to Nuclear Development and also to</p> <p>12 talk about an extension.</p> <p>13 Q. Okay. And what was said by both sides</p> <p>14 regarding an extension?</p> <p>15 A. As I recall, the Nuclear Development folks,</p> <p>16 including Mr. Blust, asked for a six-month extension and</p> <p>17 I said I would consider it.</p> <p>18 Q. And was that the end of it?</p> <p>19 A. That's the substance of it. We also talked</p> <p>20 about Mr. McCollum's behavior of which Mr. Haney said he</p> <p>21 had no knowledge and didn't approve of, and then it</p> <p>22 continued.</p> <p>23 Q. Did you discuss the City of Memphis and a</p> <p>24 proposal by Nuclear Development to share in the</p> <p>25 provision of power to Memphis between Nuclear</p>	<p style="text-align: right;">Page 76</p> <p>1 Development and TVA?</p> <p>2 A. I do recall a discussion about splitting the</p> <p>3 power supply arrangement as you've described. I don't</p> <p>4 recall if it was in that meeting or subsequent meeting,</p> <p>5 but I do recall that subject, yes.</p> <p>6 (Deposition Exhibit 15 was marked.)</p> <p>7 MR. BLUST: We're at 16; right?</p> <p>8 MR. O'REAR: 15.</p> <p>9 MR. BLUST: Oh, 15. Sorry.</p> <p>10 BY MR. O'REAR:</p> <p>11 Q. Direct your attention to Exhibit 15 before you.</p> <p>12 This is an e-mail from Larry Blust on October 24 to</p> <p>13 Sherry Quirk that at the top was forwarded from</p> <p>14 Autumn Beeler to Clifford Beach on October 25th, 2018.</p> <p>15 The exhibit attaches notes or bullet points from</p> <p>16 Mr. Blust purportedly with respect to the matters that</p> <p>17 were discussed at the meeting with you the prior day.</p> <p>18 Did you ever see this document?</p> <p>19 A. I don't recall if I saw this document. The</p> <p>20 subject matter I do recall.</p> <p>21 Q. Okay. Does that document fairly represent the</p> <p>22 proposal that was made by Nuclear Development at the</p> <p>23 meeting with you and Ms. Quirk and Mr. Haney?</p> <p>24 A. Give me a chance to read it here.</p> <p>25 This is consistent with my recollection of what</p>

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<p style="text-align: right;">Page 77</p> <p>1 we discussed, yes.</p> <p>2 Q. Did you respond to this proposal?</p> <p>3 A. Eventually I responded, yes.</p> <p>4 Q. What was your response?</p> <p>5 A. A two-week extension, not a six-month</p> <p>6 extension.</p> <p>7 Q. With respect to the proposal made in these</p> <p>8 bullet points, what was your response?</p> <p>9 A. I declined.</p> <p>10 Q. After this meeting with Mr. Haney and Mr. Blust</p> <p>11 and Ms. Quirk, did you go to Memphis and meet with</p> <p>12 Memphis officials?</p> <p>13 A. I don't recall. I went to Memphis a number of</p> <p>14 times and met with Memphis officials. I don't recall</p> <p>15 specific timing.</p> <p>16 Q. Did you meet with officials of the City of</p> <p>17 Memphis on November the 6th, 2018, to discuss</p> <p>18 Bellefonte?</p> <p>19 A. I met with the City officials on November 6th.</p> <p>20 The reason I remember that is November 6th is the date</p> <p>21 that Memphis signed the original contract with TVA. And</p> <p>22 we were on November 6th Street in Memphis, so yes, I was</p> <p>23 there on November the 6th.</p> <p>24 Q. And who did you meet with?</p> <p>25 A. I believe I met with the city council or with</p>	<p style="text-align: right;">Page 78</p> <p>1 MLGW. I don't recall. Maybe both.</p> <p>2 Q. And tell the Court who MLGW is?</p> <p>3 A. Memphis Light, Gas and Water, the public power</p> <p>4 provider in the City of Memphis.</p> <p>5 Q. And is that a division of the City of Memphis?</p> <p>6 A. I --</p> <p>7 Q. As opposed to a separate legal entity?</p> <p>8 A. I don't know the answer to that.</p> <p>9 Q. So you met with the City counsel. Who did you</p> <p>10 meet with or who was present for Memphis Light, Gas and</p> <p>11 Water?</p> <p>12 MR. LEMBKE: Object. It misstates his</p> <p>13 testimony.</p> <p>14 BY MR. O'REAR:</p> <p>15 Q. Okay. I apologize then. I thought that's what</p> <p>16 you said.</p> <p>17 A. What I said was we may have met with those</p> <p>18 groups separately.</p> <p>19 Q. All right.</p> <p>20 A. I don't recall. Typically we would go to</p> <p>21 Memphis; you would meet with your customer. I do recall</p> <p>22 being in the City counsel, and I don't recall anybody</p> <p>23 from MLGW being there. They certainly weren't there</p> <p>24 with me.</p> <p>25 Q. Who did you regard as your customer in Memphis?</p>
<p style="text-align: right;">Page 79</p> <p>1 A. MLGW.</p> <p>2 Q. And not the City counsel?</p> <p>3 A. Right.</p> <p>4 Q. Who from TVA was at this meeting?</p> <p>5 A. I would -- I don't know. Justin Maierhofer</p> <p>6 typically would be with me. I don't recall who else</p> <p>7 would have been there.</p> <p>8 Q. To your knowledge, is there any record, either</p> <p>9 a recording or written record, of what was stated at</p> <p>10 your meeting with either the Memphis City Council or</p> <p>11 MLGW?</p> <p>12 A. I think the city council meetings are</p> <p>13 transcribed. I don't know that, but I seem to recall</p> <p>14 seeing a transcription of some of their events. And I</p> <p>15 don't know of any record, if I was at MLGW that day,</p> <p>16 whether there was a record.</p> <p>17 Q. This meeting with the city council, was this a</p> <p>18 regular meeting and you were on the agenda for that</p> <p>19 meeting?</p> <p>20 A. That's my recollection, yes.</p> <p>21 Q. And tell me what was discussed at each of those</p> <p>22 meetings.</p> <p>23 A. The specifics of that I can't recall. I'm sure</p> <p>24 what I did was make the pitch for staying with TVA and</p> <p>25 the risk of putting 80 or a hundred percent of your</p>	<p style="text-align: right;">Page 80</p> <p>1 power supply in a single asset that hadn't been built.</p> <p>2 But I was there to make the pitch for TVA.</p> <p>3 Q. Were there comments made at either meeting that</p> <p>4 concerned you in terms of Memphis leaving TVA?</p> <p>5 A. I don't recall that.</p> <p>6 Q. Do you recall being concerned when you left</p> <p>7 those meetings that Memphis was seriously considering</p> <p>8 leaving TVA?</p> <p>9 A. As I said previously, I'm always concerned when</p> <p>10 any customer thinks about leaving. I was fairly</p> <p>11 confident that the value proposition TVA has would be</p> <p>12 superior to any option, including Nuclear Development,</p> <p>13 and that's the pitch I went to make.</p> <p>14 Q. Does Memphis's contract with TVA require a</p> <p>15 five-year notice to terminate?</p> <p>16 A. I think it is a five-year termination by</p> <p>17 Memphis and a ten-year termination by TVA.</p> <p>18 Q. And when is the five-year notice date under the</p> <p>19 contract with Memphis?</p> <p>20 A. My recollection is a rolling five. So it's</p> <p>21 whenever they give notice, it would be five years from</p> <p>22 that date.</p> <p>23 Q. So it's perpetual --</p> <p>24 A. Yes. It's whatever they agreed.</p> <p>25 Q. -- with that rolling notice date?</p>

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1 A. (Witness nods head.)

2 **Q. After that meeting with Memphis, did you make**

3 **statements to anyone that you wanted to unwind the**

4 **contract with Nuclear Development?**

5 A. I don't recall any such statements.

6 **Q. Did you undertake any efforts after you met**

7 **with Memphis to find a way to not close the transaction**

8 **with Nuclear Development?**

9 A. No.

10 **Q. When did you make the decision not to agree to**

11 **the extension of the closing to May of 2019?**

12 A. Sometime in the two-week extension period from

13 the 14th through the -- whatever the date was, the 30th.

14 **Q. All right.**

15 A. Late in that period.

16 **Q. Sometime between late in the period of**

17 **November 14, 2018, through November 30, 2018?**

18 A. Yes.

19 **Q. When did TVA first notify Nuclear Development**

20 **that it was concerned with the legality of the**

21 **transaction because the construction permits had not**

22 **been yet transferred?**

23 A. I don't recall a specific date. I would say

24 later in the period, but I don't really recall the date.

25 **Q. Later in the period of --**

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1 A. That is correct, yes.

2 **Q. Now, this e-mail says, "Per Cliff Beach,**

3 **Bill Johnson is meeting with the Memphis City Council**

4 **this afternoon and will not make up his mind until after**

5 **that meeting."**

6 **And have you seen this e-mail or not?**

7 A. I don't have any recollection of seeing this.

8 **Q. Okay. But is it a true statement that you had**

9 **indicated that you were not going to make up your mind**

10 **regarding the extension to May of 2019 until after you**

11 **met with the City of Memphis?**

12 MR. LEMBKE: Objection. Lack of foundation.

13 THE WITNESS: No.

14 BY MR. O'REAR:

15 **Q. That's not a correct statement?**

16 A. That's not a statement I ever made to anybody.

17 **Q. Okay. Is that a true statement, whether you**

18 **made it or not?**

19 A. No.

20 **Q. All right, sir.**

21 (Deposition Exhibit 17 was marked.)

22 BY MR. O'REAR:

23 **Q. Now, directing your attention to Exhibit 17,**

24 **you see that this is an e-mail from Clifford Beach to**

25 **Larry Blust copied to Chris Chandler and Sherry Quirk**

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1 A. The original closing.

2 **Q. -- November 14 --**

3 A. Yeah.

4 **Q. -- through November 30?**

5 A. Later in the two-year period. I don't really

6 recall exactly when the issue really came to the fore.

7 (Deposition Exhibit 16 was marked.)

8 BY MR. O'REAR:

9 **Q. Direct your attention to Exhibit 16. I'd like**

10 **you to turn to the second page. There's an e-mail there**

11 **from Larry Blust to James Chardos dated November**

12 **the 6th, 2018. That was the date you met with Memphis;**

13 **correct?**

14 MR. LEMBKE: Object to the form. Lack of

15 foundation.

16 MR. O'REAR: That November 6th, 2018, was the

17 date he met with Memphis?

18 MR. LEMBKE: No. You started the question by

19 talking about what's in this document, and you haven't

20 established that he --

21 MR. O'REAR: I think we've --

22 MR. LEMBKE: -- has seen the document.

23 BY MR. O'REAR:

24 **Q. I think we've establish that of November 6th,**

25 **2018, was the date you met with Memphis; correct?**

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1 **subject "License transfer discussion date November 9,**

2 **2018." The cover e-mail says: "Larry, as promised, are**

3 **several bullets relating to our recent discussion.**

4 **Cliff Beach."**

5 **And you can see that there is an attachment to**

6 **that e-mail on the second page; right?**

7 MR. LEMBKE: Object to the form. Lack of

8 foundation.

9 THE WITNESS: There is an attachment.

10 BY MR. O'REAR:

11 **Q. All right. Let me -- I'll let you read the**

12 **attachment. I want to ask you some questions about it.**

13 **All right, sir. Now, this attachment addresses**

14 **issues and contentions relating to the transfer of the**

15 **construction permits; correct?**

16 MR. LEMBKE: Object to the form. Lack of

17 foundation.

18 MR. O'REAR: He can read it and answer that.

19 MR. LEMBKE: Caine, you know it's not proper to

20 put a document in front of a witness and just ask him

21 questions about what it says if he's never seen it

22 before.

23 MR. O'REAR: I think it's perfectly proper.

24 MR. LEMBKE: That's the basis of the objection.

25 MR. O'REAR: He's seen it now.

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<p style="text-align: right;">Page 85</p> <p>1 MR. LEMBKE: Same objection.</p> <p>2 THE WITNESS: The document is entitled "NRC</p> <p>3 License Transfer Requirements" and is a recitation for</p> <p>4 the legal requirements for license transfer.</p> <p>5 BY MR. O'REAR:</p> <p>6 Q. Are you aware of any communication from TVA to</p> <p>7 Nuclear Development regarding the license transfer</p> <p>8 requirements and a concern over closing if the</p> <p>9 construction permits had not transferred before closing</p> <p>10 that preceded this communication?</p> <p>11 A. I don't recall.</p> <p>12 MR. LEMBKE: Object to the form. When you say</p> <p>13 "communication" do you mean written or --</p> <p>14 MR. O'REAR: This e-mail.</p> <p>15 MR. LEMBKE: But when you said are you aware of</p> <p>16 any communication to Nuclear Development, are you saying</p> <p>17 written or verbal --</p> <p>18 MR. O'REAR: Either.</p> <p>19 MR. LEMBKE: -- or any type?</p> <p>20 MR. O'REAR: Yeah, any.</p> <p>21 THE WITNESS: I don't recall any.</p> <p>22 (Deposition Exhibit 18 was marked.)</p> <p>23 MR. BLUST: This is 17; right?</p> <p>24 MR. O'REAR: 18.</p> <p>25 MR. BLUST: 18.</p>	<p style="text-align: right;">Page 86</p> <p>1 BY MR. O'REAR:</p> <p>2 Q. Directing your attention to Exhibit 18, this is</p> <p>3 from the records of TVA. It is an e-mail relating to</p> <p>4 the amendment to the agreement that we discussed earlier</p> <p>5 in the deposition providing for an extension from</p> <p>6 November 14 to November 30, 2018, of the closing.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And do you note that the third through</p> <p>10 fifth pages reflect the agreement? Do you agree that</p> <p>11 that is the first amendment as signed by TVA and Nuclear</p> <p>12 Development?</p> <p>13 A. That is what it appears to be, yes.</p> <p>14 Q. If you would look at the first page in the top</p> <p>15 e-mail and just help us identify everyone there.</p> <p>16 Jack McCall or Nick McCall, he's with the legal</p> <p>17 department; is that correct?</p> <p>18 A. He is.</p> <p>19 Q. Okay. Lori Melton Hunt, who is she?</p> <p>20 A. I do not know.</p> <p>21 Q. Kendra Mansur?</p> <p>22 A. She's in the legal department.</p> <p>23 Q. Norman Stuart?</p> <p>24 A. Don't know Norman.</p> <p>25 Q. Michael Tindle?</p>
<p style="text-align: right;">Page 87</p> <p>1 A. I believe Michael's in the legal department.</p> <p>2 Q. Okay. And Clifford Beach, of course?</p> <p>3 A. Clifford is legal department, yeah.</p> <p>4 Q. Okay, sir. And, again, it was your testimony</p> <p>5 earlier that the purpose of this amendment was because</p> <p>6 you had taken time to consider Nuclear Development's</p> <p>7 request for an extension, and you wanted to give them</p> <p>8 back some time and agreed to give them back 16 days on</p> <p>9 the extension; is that right?</p> <p>10 A. That's right. It was something worth</p> <p>11 considering and considering seriously. I had to take a</p> <p>12 trip to London in the middle of it, and so it just</p> <p>13 seemed like the fair thing to do.</p> <p>14 Q. So the purpose of this extension and this</p> <p>15 amendment was not to give TVA more time to figure out</p> <p>16 whether this transaction was legal or illegal?</p> <p>17 A. We certainly continued to study it during this</p> <p>18 period. We had gotten a significant opinion of counsel</p> <p>19 on the matter, but we certainly continued to study on it</p> <p>20 and see if there was some way to do this.</p> <p>21 Q. When did you receive the opinion of counsel?</p> <p>22 A. I don't recall. Somewhere November, October.</p> <p>23 Somewhere in here.</p> <p>24 Q. Are you talking about -- are you talking about</p> <p>25 outside counsel?</p>	<p style="text-align: right;">Page 88</p> <p>1 A. Yes.</p> <p>2 Q. You're talking about the Pillsbury law firm?</p> <p>3 A. Yes.</p> <p>4 (Deposition Exhibit 19 was marked.)</p> <p>5 BY MR. O'REAR:</p> <p>6 Q. Directing your attention to Exhibit 19. Were</p> <p>7 you aware --</p> <p>8 MR. LEMBKE: Is that part of the exhibit? No.</p> <p>9 BY MR. O'REAR:</p> <p>10 Q. Were you aware on or around November the 12th,</p> <p>11 2018, that Nuclear Development had provided to TVA a</p> <p>12 document which outlined a permissible regulatory path</p> <p>13 forward under the NRC regulations for transferring the</p> <p>14 Bellefonte site prior to the transfer of the</p> <p>15 construction permits?</p> <p>16 MR. LEMBKE: Object to the form. Lack of</p> <p>17 foundation. Misstates the document.</p> <p>18 THE WITNESS: I know there were discussions</p> <p>19 going back and forth between the various lawyers on what</p> <p>20 the requirements for license transfer were. As to the</p> <p>21 specifics of that, I don't have any recollection of it.</p> <p>22 BY MR. O'REAR:</p> <p>23 Q. Were you aware that Nuclear Development was</p> <p>24 taking the position that the construction permits did</p> <p>25 not have to be transferred in order for the sale to be</p>

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<p style="text-align: right;">Page 89</p> <p>1 closed?</p> <p>2 MR. LEMBKE: Object to the form. Lack of</p> <p>3 foundation.</p> <p>4 THE WITNESS: I was aware of that, yes.</p> <p>5 BY MR. O'REAR:</p> <p>6 Q. Okay. Did you address an agencywide meeting of</p> <p>7 TVA on November the 26th, 2018?</p> <p>8 A. Maybe. I routinely had town hall meetings.</p> <p>9 Q. Okay. Did you have one in late November?</p> <p>10 A. I don't recall.</p> <p>11 Q. Did you have one where at the end of the</p> <p>12 meeting there were questions about Bellefonte and why we</p> <p>13 were selling Bellefonte to Nuclear Development?</p> <p>14 MR. LEMBKE: Object to the form. Lack of</p> <p>15 foundation.</p> <p>16 THE WITNESS: Well, that was discussed at</p> <p>17 several meetings. So if there was a meeting in</p> <p>18 November, that probably was a likely subject matter. I</p> <p>19 would take questions from employees.</p> <p>20 BY MR. O'REAR:</p> <p>21 Q. And where were these town hall meetings held?</p> <p>22 Where was the one in November held?</p> <p>23 A. They were typically held one of two places: in</p> <p>24 the auditorium in Knoxville in the office or the</p> <p>25 auditorium in Chattanooga in the office. It would have</p>	<p style="text-align: right;">Page 90</p> <p>1 been one of those two places.</p> <p>2 Q. And who was in attendance at the meeting in</p> <p>3 November?</p> <p>4 A. Again, I'm not sure we had one in November.</p> <p>5 Q. Okay.</p> <p>6 A. But whoever showed up. It was employees.</p> <p>7 Q. TVA internal?</p> <p>8 A. Yes.</p> <p>9 Q. Town meeting?</p> <p>10 A. TVA, yes.</p> <p>11 Q. Is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. So everybody there was with TVA in some</p> <p>14 capacity, as far as you know?</p> <p>15 A. Yes.</p> <p>16 Q. The invitees were TVA?</p> <p>17 A. Yes. It was open invitation to employees, yes.</p> <p>18 Q. All employees --</p> <p>19 A. Every level.</p> <p>20 Q. -- at whatever level?</p> <p>21 A. And I would assume there would be some</p> <p>22 contractors in there also.</p> <p>23 Q. And was this meeting videotaped?</p> <p>24 A. They typically were videotaped.</p> <p>25 Q. Do you recall who the moderator was for the</p>
<p style="text-align: right;">Page 91</p> <p>1 meeting?</p> <p>2 A. Typically it was Janet Brewer.</p> <p>3 Q. And what role does she hold?</p> <p>4 A. She was the senior VP of communications, but I</p> <p>5 think she recently retired.</p> <p>6 (Deposition Exhibit 20 was marked.)</p> <p>7 BY MR. O'REAR:</p> <p>8 Q. Just I would like to identify for the record</p> <p>9 Exhibit 20. You may or may not have seen this, but I'll</p> <p>10 represent on the record that this is a photocopy of a CD</p> <p>11 that was provided by TVA to Nuclear Development in the</p> <p>12 course of this litigation. It's designated as TVA</p> <p>13 Number 9721 produced on September 19th, 2019.</p> <p>14 Do you know whether that was, in fact, produced</p> <p>15 by your counsel or not in this case?</p> <p>16 A. I don't have any idea.</p> <p>17 MR. O'REAR: All right. Let's take a -- let's</p> <p>18 go off the record for just a minute.</p> <p>19 THE VIDEOGRAPHER: The time is 11:08. We're</p> <p>20 going off the record.</p> <p>21 (Off-the-record discussion was held.)</p> <p>22 THE VIDEOGRAPHER: The time is 11:25. We're</p> <p>23 back on the record.</p> <p>24 BY MR. O'REAR:</p> <p>25 Q. Mr. Johnson, we're about to play a video clip</p>	<p style="text-align: right;">Page 92</p> <p>1 of you speaking at a TVA town hall meeting on November</p> <p>2 the 26th, 2018. I'd like for you to look at this, and</p> <p>3 then I'm going to ask you some questions about it.</p> <p>4 Have you seen a transcript of these comments?</p> <p>5 A. No.</p> <p>6 Q. Okay.</p> <p>7 A. I'm not sure they're transcribed. So. . .</p> <p>8 Q. But in prep -- did you review this video in</p> <p>9 preparation for your deposition?</p> <p>10 A. No.</p> <p>11 MR. LEMBKE: Again, I instruct you not to</p> <p>12 answer that question because it would reveal attorney</p> <p>13 work product as to the content of what you reviewed for</p> <p>14 your prep.</p> <p>15 BY MR. O'REAR:</p> <p>16 Q. Regardless of whether for the preparation of</p> <p>17 your deposition or not, have you ever reviewed a video</p> <p>18 of this meeting since the comments were made at the</p> <p>19 meeting?</p> <p>20 MR. LEMBKE: Same instruction.</p> <p>21 THE WITNESS: I'll follow the instruction.</p> <p>22 BY MR. O'REAR:</p> <p>23 Q. Okay. Just refuse to answer that?</p> <p>24 A. (Witness nods head.)</p> <p>25 Q. Okay. But you don't think there's a transcript</p>

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<p style="text-align: right;">Page 93</p> <p>1 of it as far as you know?</p> <p>2 A. I would doubt it. I probably had some written</p> <p>3 comments when I started that I didn't follow because I</p> <p>4 never did.</p> <p>5 Q. Okay. All right. All right. We have marked</p> <p>6 the video CD as Exhibit 20. It's not the actual CD,</p> <p>7 which I have possession of. I assume TVA has possession</p> <p>8 of it. I've just marked a photocopy of it. We're going</p> <p>9 to mark the flash drive that we're about to play of the</p> <p>10 entire meeting which contains the entire meeting, but</p> <p>11 we're only going to display the part that I'm going to</p> <p>12 ask you some questions about. We're going to mark that</p> <p>13 as Exhibit 21.</p> <p>14 So when we finish with that, just in terms of</p> <p>15 chain of custody, I'm going to ask the videographer to</p> <p>16 remove the flash drive. We'll put an exhibit stamp on</p> <p>17 it and give it to the court reporter. All right?</p> <p>18 Okay. Let's watch the video now.</p> <p>19 (Video playing; reported as follows):</p> <p>20 "Lenita, do you have any questions?</p> <p>21 "Yes. Thank you.</p> <p>22 "Oh, good. This is my favorite part.</p> <p>23 "Why continue to sell Bellefonte if the</p> <p>24 potential buyer wants to take away our largest LPC to</p> <p>25 make it work? Why give an extension to provide more</p>	<p style="text-align: right;">Page 94</p> <p>1 time to sell it off?</p> <p>2 "Well, that's a great question. So have I</p> <p>3 explained to you the three rules of the universe? Have</p> <p>4 I ever told you this? Some of you I have, and you're</p> <p>5 shaking your head no, but I'm doing it anyways because</p> <p>6 they apply to this situation. Rule 1, it seemed like a</p> <p>7 good idea at the time; Rule 2, no good can come from</p> <p>8 this; and Rule 3 is even the intelligent way wouldn't</p> <p>9 have worked. So I think we got them all covered here.</p> <p>10 "We're under a lot of pressure to do something</p> <p>11 with the plant to sell it. We thought it was a good</p> <p>12 idea, put it into productive use, and knew we would</p> <p>13 compete for load, and that's not really what ticked us</p> <p>14 off in Memphis. What ticked me off in Memphis was our</p> <p>15 former colleague Bill McCollum standing up and saying</p> <p>16 you should do this nuclear deal, but even if you don't,</p> <p>17 you should leave TVA and go to MISO or Entergy 'cause</p> <p>18 those are both better deals than you're getting from</p> <p>19 TVA. To me, that crossed the line.</p> <p>20 "Yeah, so what do you do? Well, we gave them a</p> <p>21 short extension because I ate into some of their time.</p> <p>22 They have a closing date Friday?</p> <p>23 "Uh-huh.</p> <p>24 "Let's do a poll. How many people think I</p> <p>25 should give them another extension? Okay. So there's</p>
<p style="text-align: right;">Page 95</p> <p>1 no extension. And we'll see where we are at the close</p> <p>2 of business Friday, but there's no more extension. I do</p> <p>3 think a lot of people have been misled about this. The</p> <p>4 idea that you can finish that plant, what they're really</p> <p>5 saying, if you listening carefully, is they can finish</p> <p>6 it for 3 and a half billion. Be a pretty good trick.</p> <p>7 What'd it take you to finish Watts Bar, Mike?</p> <p>8 "4.7.</p> <p>9 "4.7.</p> <p>10 "It was further along.</p> <p>11 "It was further along. There was a plant</p> <p>12 that'd been built dozens of times in this country and it</p> <p>13 was our fourth of the same exact design. This</p> <p>14 Bellefonte has never been built in this country. Built</p> <p>15 once, ran a fuel cycle, shut down in 1987. Never been</p> <p>16 licensed here. These are kind of a couple of the</p> <p>17 reasons we decided we weren't proceeding. It just</p> <p>18 seemed undoable.</p> <p>19 "So but it's time to call the question. So</p> <p>20 we'd be calling it on Friday. I've already been to the</p> <p>21 legal department today for two reasons. One, that's</p> <p>22 where my bathroom is on the sixth floor; but the more</p> <p>23 important but less pressing question, to alert the</p> <p>24 litigators that I'm sure we'll be a defendant by Monday.</p> <p>25 So I'm sure we'll be sued about this. If you study the</p>	<p style="text-align: right;">Page 96</p> <p>1 players -- well, we'll be defendants on Monday. That's</p> <p>2 all I'm saying.</p> <p>3 "So, Bill, there's a question that came in that</p> <p>4 asked: Do you think there's a real chance we could lose</p> <p>5 MLGW as a customer as a result of all this?</p> <p>6 "I don't think they'll go to Bellefonte.</p> <p>7 I mean, J.T. Young been in the business a long time. He</p> <p>8 knows that's -- to put 80 percent of your power supply</p> <p>9 in one asset, that seems like a big risk, but they have</p> <p>10 other options. So I'm confident our value proposition</p> <p>11 to them is better than anybody's. If you look at the</p> <p>12 total package re economic development, community</p> <p>13 support, whatever, I think we will continue the</p> <p>14 80-some-year relationship. They have options.</p> <p>15 "And the point here is you should treat every</p> <p>16 customer every day like they could leave you tomorrow.</p> <p>17 You know, we slipped a little bit in Memphis over the</p> <p>18 last couple years. I was part of that. But we've come</p> <p>19 back in a pretty big way, and I think we're making</p> <p>20 progress down there. But every day just assume every</p> <p>21 customer can leave you, and that'd probably inform your</p> <p>22 decision-making a little bit.</p> <p>23 "Just to build on the Bellefonte -- to build on</p> <p>24 the Bellefonte question, some people have asked me and I</p> <p>25 didn't know, the money that they put down, is that like</p>

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<p style="text-align: right;">Page 97</p> <p>1 earnest money in a house? If you walk away, they lose</p> <p>2 that money? Does TVA get any of that money?</p> <p>3 "So my understanding, subject to correction, is</p> <p>4 that that is earnest money that we can keep. To close,</p> <p>5 they gotta pony up another 90 million. There's a lot of</p> <p>6 technical problems with them closing. Mostly that they</p> <p>7 don't have a permit from the NRC, so they can't actually</p> <p>8 own the site which they think they can do later. So I</p> <p>9 think we can plan on keeping the 22.</p> <p>10 "Another question --</p> <p>11 "If they go away, I'd give it back to 'em.</p> <p>12 How's that? John's saying no, no.</p> <p>13 "He's already spent that money.</p> <p>14 "It's been an interesting discussion in senior</p> <p>15 group. Can they close? What about the permit? And all</p> <p>16 John says is, do they have the cash? Do they have the</p> <p>17 cash?</p> <p>18 "What else is on your minds?</p> <p>19 "It's all good.</p> <p>20 "No questions."</p> <p>21 (End of video.)</p> <p>22 MR. BLUST: That's a great screen.</p> <p>23 BY MR. O'REAR:</p> <p>24 Q. I'm going to ask you some questions about those</p> <p>25 comments. If you need to replay that to answer, I'll be</p>	<p style="text-align: right;">Page 98</p> <p>1 happy to do that, okay?</p> <p>2 A. Yep.</p> <p>3 Q. So you had mentioned the moderator. It might</p> <p>4 have been a Ms. Brewer; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. What's her name?</p> <p>7 A. Janet Brewer.</p> <p>8 Q. Janet Brewer. Was that Janet Brewer?</p> <p>9 A. In the dark suit, yes, dark hair, yes.</p> <p>10 Q. And do you know who asked the first question</p> <p>11 from the audience, why continue to sell Bellefonte?</p> <p>12 A. So that came over the telephone or e-mail.</p> <p>13 That was not somebody in the direct audience.</p> <p>14 Q. Okay.</p> <p>15 A. And the reason I said this is my favorite part.</p> <p>16 The woman that reads those questions has a lovely voice.</p> <p>17 Q. All right, sir. And is that Anita?</p> <p>18 A. It's not Anita. Lenita.</p> <p>19 Q. Lenita?</p> <p>20 A. Yeah.</p> <p>21 Q. Okay. Do you know who asked --</p> <p>22 A. No.</p> <p>23 Q. -- the substantive question?</p> <p>24 A. No. No.</p> <p>25 Q. Okay. But that would have been someone from</p>
<p style="text-align: right;">Page 99</p> <p>1 TVA; right?</p> <p>2 A. Presumably. I mean, it was on a TVA webcast</p> <p>3 and call, yeah.</p> <p>4 Q. Were these questions set up in advance, or were</p> <p>5 they just --</p> <p>6 A. No.</p> <p>7 Q. -- spontaneous?</p> <p>8 A. They're spontaneous.</p> <p>9 Q. When you said you've got three rules to the</p> <p>10 universe and the first one was "it seemed like a good</p> <p>11 idea at the time," so were you telling your group there</p> <p>12 that the contract with Bellefonte seemed like a good</p> <p>13 idea at the time it was signed but it no longer seemed</p> <p>14 like a good idea?</p> <p>15 A. No. I was having lighthearted banter with the</p> <p>16 group. It seemed like a good idea at the time, and it</p> <p>17 was.</p> <p>18 Q. But it didn't seem like a good idea when you</p> <p>19 were making those comments? Is that what you were</p> <p>20 saying?</p> <p>21 A. That's not what I was saying.</p> <p>22 Q. What were you saying?</p> <p>23 A. I was saying the three rules of the universe,</p> <p>24 which I told them many times just as a way to have fun</p> <p>25 with the group, seemed like a good idea at the time. It</p>	<p style="text-align: right;">Page 100</p> <p>1 did. No good can come from this, meaning I'm pretty</p> <p>2 sure we're going to get sued. That's what it was about.</p> <p>3 Q. Now, were you going to get sued because you had</p> <p>4 already decided at that point in time not to close the</p> <p>5 transaction?</p> <p>6 A. I hadn't actually decided. I was leaning that</p> <p>7 way, but like most good lawyers, I'm going to wait till</p> <p>8 the last moment to actually decide. So. . .</p> <p>9 Q. Well, you said you were certain you were going</p> <p>10 to get sued?</p> <p>11 A. Yeah. Well, if we didn't close, I was certain</p> <p>12 we were going to get sued, sure.</p> <p>13 Q. But you said we were going to get sued. You</p> <p>14 said, "I'm sure we were going to be sued about this."</p> <p>15 So you were sure when you made the comments on</p> <p>16 November 26th you were going to be sued, and you were</p> <p>17 sure because you had decided at that point you were not</p> <p>18 going to close; correct?</p> <p>19 MR. LEMBKE: Objection. Misstates the</p> <p>20 witness's testimony and argumentative.</p> <p>21 THE WITNESS: I was certain we were going to be</p> <p>22 sued if we didn't close. I had not yet finally decided</p> <p>23 that we were not going to close because we were unable</p> <p>24 to close legally. I made that decision as late as</p> <p>25 possible, but I certainly was leaning that way at the</p>

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<p style="text-align: right;">Page 101</p> <p>1 time.</p> <p>2 BY MR. O'REAR:</p> <p>3 Q. When did you make that decision?</p> <p>4 A. The day before the extension ran out.</p> <p>5 Q. The day before November 30th, which would have</p> <p>6 been November 29th, 2018?</p> <p>7 A. Yes.</p> <p>8 Q. And then your third rule of the universe, "Even</p> <p>9 the intelligent way wouldn't have worked," what does</p> <p>10 that mean?</p> <p>11 A. That's just the third rule of the universe.</p> <p>12 Doesn't mean anything.</p> <p>13 Q. Does that have any application at all to</p> <p>14 Bellefonte?</p> <p>15 A. No. So one of the things that I like to do at</p> <p>16 these events is have a little fun and make them laugh a</p> <p>17 little bit. So no, it had nothing to do with that.</p> <p>18 Q. Now, you remain ticked off at Bill McCollum</p> <p>19 based on your comments here; right?</p> <p>20 A. I'm still ticked off with Bill McCollum.</p> <p>21 Q. All right, sir. Now, could you tell the Court</p> <p>22 who you're referring to when you say MISO?</p> <p>23 A. MISO is the Midwest Independent System</p> <p>24 Operator.</p> <p>25 Q. And who is Entergy?</p>	<p style="text-align: right;">Page 102</p> <p>1 A. Entergy is a large integrated invest-your-own</p> <p>2 utility in the south headquartered in Louisiana but in a</p> <p>3 number of states.</p> <p>4 Q. And where is MISO headquartered?</p> <p>5 A. MISO is a conglomeration of dozens of entities</p> <p>6 in the Midwest. I think they're actually in --</p> <p>7 headquartered in maybe Arkansas.</p> <p>8 Q. Little Rock?</p> <p>9 A. Maybe in Little Rock.</p> <p>10 Q. Is Entergy part of MISO?</p> <p>11 A. They're either part of MISO or the Southwest</p> <p>12 Power Pool. They were in one and went to the other, And</p> <p>13 I can't remember which direction they went.</p> <p>14 Q. And so you said Bill McCollum crossed the line</p> <p>15 when he suggested that Memphis should leave TVA and go</p> <p>16 to MISO or Entergy because those are better deals?</p> <p>17 A. In my opinion, yes.</p> <p>18 Q. Okay. And you were ticked off about that when</p> <p>19 he made comments that you attribute to him to the</p> <p>20 Memphis City Council back in October of 2018?</p> <p>21 A. I think it is inappropriate to make those kind</p> <p>22 of comments about your former employer who's paying your</p> <p>23 retiree, and you have nothing to benefit other than to</p> <p>24 injure TVA. I think that's highly inappropriate.</p> <p>25 Q. Now, you asked the audience to do a poll on</p>
<p style="text-align: right;">Page 103</p> <p>1 extension. You gave them about a half second to vote,</p> <p>2 and then you said no extension; correct?</p> <p>3 A. Right. That's what the video said.</p> <p>4 Q. So you had decided at that point in time that</p> <p>5 there would be no extension granted to TVA -- excuse</p> <p>6 me -- to Nuclear Development pursuant to their request</p> <p>7 to extend the closing to May 2019; right?</p> <p>8 A. That's not --</p> <p>9 MR. LEMBKE: Objection. Asked and answered.</p> <p>10 THE WITNESS: That's not true.</p> <p>11 BY MR. O'REAR:</p> <p>12 Q. Well, you said, "No extension. Okay, so there</p> <p>13 is no extension."</p> <p>14 A. Well, if --</p> <p>15 Q. So -- go ahead.</p> <p>16 A. If you think I make decisions based on a poll</p> <p>17 of employees, you don't know much about the subject</p> <p>18 matter. You have mis-estimated me.</p> <p>19 Q. No, I don't really think you made it based on</p> <p>20 that poll.</p> <p>21 A. No.</p> <p>22 Q. But I do think you had made the decision at</p> <p>23 that time because you said, "Okay, no extension."</p> <p>24 MR. LEMBKE: I object to the form. There's no</p> <p>25 question there. This is not a forum for statements by</p>	<p style="text-align: right;">Page 104</p> <p>1 counsel.</p> <p>2 BY MR. O'REAR:</p> <p>3 Q. Had you made the decision at that time --</p> <p>4 MR. LEMBKE: Move to strike.</p> <p>5 BY MR. O'REAR:</p> <p>6 Q. -- not to grant the extension?</p> <p>7 A. No.</p> <p>8 Q. When you said, "I do think that a lot of people</p> <p>9 have been misled about this," what were you referring</p> <p>10 to?</p> <p>11 A. Several things. The ease of Memphis going to</p> <p>12 MISO, the price of power out of MISO, the ease of</p> <p>13 construction of Bellefonte. How the power would</p> <p>14 actually get from Bellefonte to Memphis I think required</p> <p>15 a lot of misinformation floating around about this.</p> <p>16 Q. Well, what were you referring to when you said,</p> <p>17 "A lot of people have been misled"? Who had been</p> <p>18 misled?</p> <p>19 A. Members of the public.</p> <p>20 Q. Were you specifically talking about Memphis</p> <p>21 officials?</p> <p>22 A. They would certainly be included in that group,</p> <p>23 yes.</p> <p>24 Q. And who was doing the misleading?</p> <p>25 A. Mr. McCollum. Other people who had been hired.</p>

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1 I don't know who they were, but things would pop up
2 about here's a study you can go to MISO and get power
3 for half the price, and it's just not true. So. . .
4 **Q. Well, as specifically as you can recall, what**
5 **were you referring to when you said that Memphis had**
6 **been misled by Mr. McCollum or anyone on behalf of**
7 **Nuclear Development?**
8 MR. LEMBKE: Object to the form. That
9 misstates the evidence. He never said that.
10 BY MR. O'REAR:
11 **Q. Do you believe Memphis had been misled by**
12 **Mr. McCollum?**
13 A. Yes.
14 **Q. All right. And what did he say that misled**
15 **Memphis?**
16 A. How easy it would be and how cheap it would be
17 to go to MISO and that TVA -- that Memphis would be
18 better off with anybody other than TVA. I think those
19 are quite misleading.
20 **Q. Okay. And is that based on what he stated at**
21 **that meeting that we've described earlier in this**
22 **deposition?**
23 A. Yes. And in subsequent media articles.
24 **Q. Okay. In media articles?**
25 A. (Witness nods head.)

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1 A. Yes, as I recall.
2 **Q. You said you'd slipped a little bit in Memphis**
3 **over the last couple of years and you were part of that.**
4 **Did that mean you had not paid due attention to**
5 **the City of Memphis as a customer?**
6 A. We paid a lot of attention, but we obviously
7 hadn't paid enough attention if they started considering
8 their options to do other things.
9 **Q. The third question from the audience was from**
10 **the lady depicted on the video about the down payment.**
11 **And, again, do you know who that lady was?**
12 A. No.
13 **Q. Okay. And she asked, "If you walk away, they**
14 **lose that money. Does TVA get any of that money?"**
15 **And your response was "yes"; right?**
16 MR. LEMBKE: Object to the form. Yes what?
17 The question is vague.
18 You can answer it if you understand it.
19 THE WITNESS: My response was what I said on
20 the video.
21 BY MR. O'REAR:
22 **Q. All right. Which was?**
23 A. That my understanding is that that was like
24 earnest money that contractually TVA could keep, and I
25 was subject to correction, as I recall. I don't know.

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1 **Q. All right, sir. Which you believe to be**
2 **misleading to the City of Memphis?**
3 A. Yes, sir.
4 **Q. When you said, "It's time to call the question.**
5 **We will be calling it on Friday," did that mean you're**
6 **not closing on Friday of that week --**
7 A. No. That was about the --
8 **Q. -- which, Friday was November 30th?**
9 **Excuse me.**
10 A. That was the date the extension ran out or was
11 extended. That was the question we were calling.
12 **Q. The second question was from a woman in the**
13 **audience who was seated and pictured on the video. Do**
14 **you know who that was?**
15 A. No.
16 **Q. The focus of -- her question was there's a**
17 **question -- or excuse me.**
18 **The moderator said, "There's a question that**
19 **came in that asked, do you think there's a real chance**
20 **we could leave MLGW as a customer as a result of all**
21 **this?"**
22 **The first question from the audience, excuse**
23 **me, was the -- excuse me. That's the third one.**
24 **So the first two questions related to Memphis**
25 **from this group; correct?**

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1 **Q. Did you describe the lack of a permit from the**
2 **NRC as a technical problem with the closing?**
3 A. I did.
4 **Q. Now, when the moderator said and you**
5 **commented -- John is your CFO; is that correct?**
6 A. Yeah. The John I referenced there is a CFO.
7 **Q. John Thomas?**
8 A. John Thomas.
9 **Q. And he was sitting in there at the meeting?**
10 A. Yes.
11 **Q. And he -- was he saying, "No, no"?**
12 A. No. I was just having fun there. He was
13 always a good subject of a little entertainment in those
14 meetings.
15 **Q. The moderator -- the moderator said, "He's**
16 **already spent that money."**
17 A. Yeah.
18 **Q. Is that true?**
19 A. It's true she said that. It's not true that he
20 had spent it.
21 **Q. Okay. All right. Then you said, "There's been**
22 **an interesting discussion in the senior group."**
23 **Is that the group that we were discussing --**
24 A. Yes.
25 **Q. -- earlier?**

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<p style="text-align: right;">Page 109</p> <p>1 A. Yes.</p> <p>2 Q. The executive management council?</p> <p>3 A. Yeah.</p> <p>4 Q. And the interesting discussion in the senior</p> <p>5 group, was that discussion among all those people that</p> <p>6 you named earlier in the deposition?</p> <p>7 A. I'm sure there was casual conversation in the</p> <p>8 entire group. There are people in that group who would</p> <p>9 have been more involved in it.</p> <p>10 Q. When you said, regarding the down payment of</p> <p>11 \$22 million, "If they'd go away, I'd give it back to</p> <p>12 them," did you want to unwind the deal at that time?</p> <p>13 A. No. I wanted to close the deal, but I was</p> <p>14 making a joke, lighthearted. I actually wanted to close</p> <p>15 the deal.</p> <p>16 Q. Well, you didn't -- if you wanted to close the</p> <p>17 deal, you didn't consent to the transfer of the</p> <p>18 construction permits, did you?</p> <p>19 A. We did not.</p> <p>20 Q. You didn't consent to the request for</p> <p>21 extension, did you?</p> <p>22 A. Not the six-month extension.</p> <p>23 Q. How did that help closing the deal?</p> <p>24 A. As I said earlier, the request for an extension</p> <p>25 to get the permits was going to take longer than six</p>	<p style="text-align: right;">Page 110</p> <p>1 months, and I think that's proven to be true since the</p> <p>2 permits haven't been issued yet and the application was</p> <p>3 found to be insufficient, which was exactly the problem</p> <p>4 I was anticipating, that this could go on for years and</p> <p>5 wouldn't be resolved in any timely manner.</p> <p>6 Q. Did your CFO want to close the deal?</p> <p>7 A. He wanted us to live by the contract. He</p> <p>8 didn't really have a view on the whole issue.</p> <p>9 Q. Well, you said in the meeting, "All John says</p> <p>10 is, do they have the cash? Do they have the cash?"</p> <p>11 A. Yeah. Joke with your CFO in front of the</p> <p>12 troops. I'll tell you, 90 million in the context of</p> <p>13 that enterprise wasn't going to move the needle very</p> <p>14 much.</p> <p>15 Q. Was that peanuts to TVA?</p> <p>16 A. Not peanuts but, you know, it's a big</p> <p>17 enterprise.</p> <p>18 Q. After this town meeting, did you have a phone</p> <p>19 conversation with Franklin Haney?</p> <p>20 A. I don't recall, but I assume I did.</p> <p>21 Q. Do you recall getting his cell number and</p> <p>22 calling him on his cell phone during the week, this week</p> <p>23 and specifically two days after the town meeting on</p> <p>24 November the 28th, 2018?</p> <p>25 A. I don't recall specifically calling him. I</p>
<p style="text-align: right;">Page 111</p> <p>1 know I did close the loop on the request for the six</p> <p>2 months with him. But how I got his cell phone or any of</p> <p>3 that, I don't recall.</p> <p>4 Q. Do you recall finding out that Nuclear</p> <p>5 Development was in Memphis meeting with Memphis City</p> <p>6 officials on November the 28th?</p> <p>7 A. I don't recall that.</p> <p>8 Q. Do you recall calling Mr. Haney on November</p> <p>9 the 29th after you learned that they were in Memphis</p> <p>10 meeting with Memphis officials on the 28th?</p> <p>11 A. I don't recall that.</p> <p>12 Q. You don't recall that conversation?</p> <p>13 A. (Witness shakes head.)</p> <p>14 Q. Do you recall being angry with Mr. Haney in a</p> <p>15 phone conversation over Nuclear Development meeting with</p> <p>16 the City of Memphis?</p> <p>17 A. I don't recall that.</p> <p>18 Q. But you do recall telling him you wouldn't</p> <p>19 extend the closing date; is that right?</p> <p>20 A. I do recall, yes, closing the loop on that.</p> <p>21 But the extent of the conversation or anything else, I</p> <p>22 don't recall.</p> <p>23 Q. Did Mr. Haney tell you that Nuclear Development</p> <p>24 was ready to close on the closing date of November 30,</p> <p>25 2018?</p>	<p style="text-align: right;">Page 112</p> <p>1 A. I don't recall him telling me that. But. . .</p> <p>2 Q. But what?</p> <p>3 A. I just don't have any recollection of that.</p> <p>4 Q. Do you recall Mr. Haney telling you that they</p> <p>5 had the finances lined up and they were ready to wire</p> <p>6 the funds on the closing?</p> <p>7 A. I don't recall that.</p> <p>8 Q. Do you recall that TVA received an opinion</p> <p>9 letter from the Pillsbury firm regarding this issue of</p> <p>10 the transfer of the permits?</p> <p>11 A. I do recall this.</p> <p>12 Q. Do you know when TVA received that letter?</p> <p>13 A. October or November, I would think, of 2018.</p> <p>14 Q. Did you ever see that letter?</p> <p>15 A. I did.</p> <p>16 Q. Did you read it?</p> <p>17 A. I did.</p> <p>18 Q. Did you read it the day it came in?</p> <p>19 A. I don't -- I don't recall that.</p> <p>20 MR. O'REAR: Okay. Does anyone need to look</p> <p>21 back at the video? I'm not going to ask any further</p> <p>22 questions about the video. All right. Let's pull the</p> <p>23 flash drive out. Just to keep this on the record, if we</p> <p>24 could. And I'm marking the flash drive as Exhibit 21.</p> <p>25 ---o0o---</p>

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<p style="text-align: right;">Page 113</p> <p>1 (Deposition Exhibit 21 was marked.)</p> <p>2 MR. O'REAR: And it's also got the Bates number</p> <p>3 of the CD on it. I'm handing it to the court reporter.</p> <p>4 22.</p> <p>5 (Deposition Exhibit 22 was marked.)</p> <p>6 BY MR. O'REAR:</p> <p>7 Q. You have before you Exhibit 22. Is that the</p> <p>8 letter you were referring to received from the Pillsbury</p> <p>9 firm?</p> <p>10 A. Yes.</p> <p>11 Q. Do you see a date on that letter?</p> <p>12 A. I do not.</p> <p>13 Q. Do you know why it's undated?</p> <p>14 A. I do not.</p> <p>15 MR. AYLIFFE: Caine, is that Exhibit 21 or 22?</p> <p>16 MR. O'REAR: 22.</p> <p>17 MR. LEMBKE: 21 is the flash drive.</p> <p>18 MR. AYLIFFE: Flash drive itself? Okay. Got</p> <p>19 it.</p> <p>20 (Deposition Exhibit 23 was marked.)</p> <p>21 BY MR. O'REAR:</p> <p>22 Q. Directing your attention to Exhibit 23. This</p> <p>23 is an e-mail from Cliff Beach in TVA's law department to</p> <p>24 Larry Blust and copied to Sherry Quirk dated</p> <p>25 November 28th, 2018.</p>	<p style="text-align: right;">Page 114</p> <p>1 Now, this letter, this e-mail says from</p> <p>2 Mr. Beach, "We did receive an unequivocal opinion from</p> <p>3 Pillsbury today opining that ND's acquisition of the</p> <p>4 site would be unlawful under the act."</p> <p>5 Do you have any reason to believe the letter</p> <p>6 did not get received by TVA on Wednesday, November</p> <p>7 the 28th, 2018?</p> <p>8 MR. LEMBKE: Object to the form. Lack of</p> <p>9 foundation.</p> <p>10 THE WITNESS: I have no reason to believe or</p> <p>11 disbelieve it.</p> <p>12 BY MR. O'REAR:</p> <p>13 Q. Do you have any reason to believe that this</p> <p>14 letter was delivered and that you reviewed it prior to</p> <p>15 November 28th, 2018?</p> <p>16 A. I don't -- I can't recall that.</p> <p>17 Q. Do you have any reason to believe that you did</p> <p>18 review it prior to that date?</p> <p>19 A. I -- I can't tell you when I reviewed it. I</p> <p>20 know I reviewed it. I reviewed it shortly after we got</p> <p>21 it. When exactly that was, I can't recall.</p> <p>22 (Deposition Exhibit 24 was marked.)</p> <p>23 BY MR. O'REAR:</p> <p>24 Q. You have before you Exhibit 24 which is a</p> <p>25 letter on TVA letterhead addressed to Nuclear</p>
<p style="text-align: right;">Page 115</p> <p>1 Development and Mr. Blust signed by Sherry Quirk,</p> <p>2 general counsel.</p> <p>3 Have you seen that letter before?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And this is the letter whereby TVA</p> <p>6 advised Nuclear Development that they would not close</p> <p>7 the transaction on the next day; correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And did you make the decision that is reflected</p> <p>10 in this letter that TVA would not close the transaction</p> <p>11 the next day, November 30th, 2018?</p> <p>12 A. I made the decision that TVA could not lawfully</p> <p>13 close the transaction on that day.</p> <p>14 Q. Did you direct Ms. Quirk to send this letter?</p> <p>15 A. I don't know if I directed her, but I certainly</p> <p>16 approved it.</p> <p>17 (Deposition Exhibit 25 was marked.)</p> <p>18 BY MR. O'REAR:</p> <p>19 Q. Now, I believe you said with respect to the</p> <p>20 letter marked as Exhibit 24 that you made the decision</p> <p>21 not to close the transaction because it would be illegal</p> <p>22 to do so or violate the law; is that what you said?</p> <p>23 A. That is what I said.</p> <p>24 Q. All right. Now, directing your attention to</p> <p>25 Exhibit 25. Were you aware that the next day, on</p>	<p style="text-align: right;">Page 116</p> <p>1 November 30, Mr. Blust as counsel for Nuclear</p> <p>2 Development sent a letter to Ms. Quirk and to David Nix</p> <p>3 essentially rebutting her letter and taking the position</p> <p>4 that it was not illegal to close the transaction on</p> <p>5 November 30th, 2018?</p> <p>6 MR. LEMBKE: Object to the form. Lack of</p> <p>7 foundation. Misstates the exhibit.</p> <p>8 BY MR. O'REAR:</p> <p>9 Q. Did you ever see this letter?</p> <p>10 A. Yes.</p> <p>11 Q. So you were aware of the position taken in the</p> <p>12 letter?</p> <p>13 A. Yes.</p> <p>14 Q. You either read it or were informed about it?</p> <p>15 A. I read it.</p> <p>16 Q. On November 30, the day of the closing?</p> <p>17 MR. LEMBKE: Mister -- no objection.</p> <p>18 THE WITNESS: I read the letter.</p> <p>19 BY MR. O'REAR:</p> <p>20 Q. Did you take the letter into consideration in</p> <p>21 making the decision that TVA would not close the</p> <p>22 transaction on November 30?</p> <p>23 A. I read the letter before we decided we couldn't</p> <p>24 lawfully close the transaction.</p> <p>25 Q. Okay. So you took into account Nuclear</p>

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<p style="text-align: right;">Page 117</p> <p>1 Development's position on this when you made that</p> <p>2 decision?</p> <p>3 A. I read what they wrote.</p> <p>4 Q. As reflected in this letter?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And you took that into account?</p> <p>7 A. I certainly considered it.</p> <p>8 Q. Did you take the decision or your</p> <p>9 recommendation that TVA not close this transaction to</p> <p>10 the board of directors?</p> <p>11 A. I can't recall exactly doing that, but I'm</p> <p>12 certain that I did because this is the kind of thing I</p> <p>13 would always run by the board.</p> <p>14 Q. Did you do that in an official board meeting?</p> <p>15 A. No.</p> <p>16 Q. When you say "run by the board," what do you</p> <p>17 mean?</p> <p>18 A. Well, there could be e-mails or phone calls or</p> <p>19 things like that.</p> <p>20 Q. With individual board members?</p> <p>21 A. I don't recall exactly how it occurred.</p> <p>22 Q. Are you speculating there were e-mails or phone</p> <p>23 calls, or are there e-mails or phone calls --</p> <p>24 A. Well, I don't --</p> <p>25 Q. Excuse me. Were there e-mails or phone calls</p>	<p style="text-align: right;">Page 118</p> <p>1 where you discussed with members of the board of</p> <p>2 directors your decision not to close the transaction on</p> <p>3 November 30, 2018?</p> <p>4 A. I do not know if there are e-mails or records</p> <p>5 of this. I do know as a general practice this is the</p> <p>6 kind of thing I would have informed the board about.</p> <p>7 Q. Do you -- can you identify any specific board</p> <p>8 member that you discussed this with?</p> <p>9 A. I can't recall the specifics of this, no.</p> <p>10 Q. Now, your one-on-one discussion with individual</p> <p>11 board members does not constitute official action by the</p> <p>12 board, does it?</p> <p>13 A. No.</p> <p>14 Q. The board has to act at a meeting properly</p> <p>15 called where a quorum is present and a requisite vote is</p> <p>16 made; correct?</p> <p>17 A. Correct.</p> <p>18 Q. Did any of that happen with respect to the</p> <p>19 decision to not close the transaction with Nuclear</p> <p>20 Development as contracted on November 30, 2018?</p> <p>21 A. No. That's a decision in the hands of</p> <p>22 management.</p> <p>23 MR. LEMBKE: Object to the form of the</p> <p>24 question. It misstates and assumes facts not in</p> <p>25 evidence. Misstates the evidence.</p>
<p style="text-align: right;">Page 119</p> <p>1 BY MR. O'REAR:</p> <p>2 Q. So was that a decision that ultimately you made</p> <p>3 personally?</p> <p>4 A. Yes.</p> <p>5 Q. Does TVA -- and I don't know. You may know</p> <p>6 whether Tennessee is a one-consent state or two-consent</p> <p>7 state in terms of recording phone conversations.</p> <p>8 A. I --</p> <p>9 Q. Do you know?</p> <p>10 A. I don't know and I've --</p> <p>11 Q. Let me ask you.</p> <p>12 A. -- never recorded a phone conversation.</p> <p>13 Q. Okay. That's one of my -- did you record any</p> <p>14 of these phone conversations you've had with</p> <p>15 representatives of Nuclear Development?</p> <p>16 A. No. No.</p> <p>17 Q. To your knowledge, does TVA have a practice of</p> <p>18 recording phone conversations with outside parties?</p> <p>19 A. I know of no such practice, but I also don't</p> <p>20 know of any phone call ever being taped.</p> <p>21 Q. Do you know if there are any recordings of</p> <p>22 phone conversations with representatives of Nuclear</p> <p>23 Development or representatives of the NRC regarding</p> <p>24 Bellefonte and the construction permit transfer issue?</p> <p>25 A. I know of no such recordings. I've never heard</p>	<p style="text-align: right;">Page 120</p> <p>1 of any.</p> <p>2 MR. O'REAR: Let's take a break.</p> <p>3 THE VIDEOGRAPHER: The time is 12:03. We're</p> <p>4 going off the record.</p> <p>5 (Break taken at 12:03 p.m.)</p> <p>6 THE VIDEOGRAPHER: The time is 12:11. We're</p> <p>7 back on the record.</p> <p>8 MR. O'REAR: Those are all the questions I have</p> <p>9 right now. I'll pass the witness. And I do reserve the</p> <p>10 right to re-call the witness and reconvene the witness</p> <p>11 in the event that there are privileged documents that</p> <p>12 involve this witness that are deemed by the Court to be</p> <p>13 not privileged that I could discuss with the witness and</p> <p>14 would have discussed with the witness had they not been</p> <p>15 marked privileged.</p> <p>16 Do you have any questions?</p> <p>17 MR. LEMBKE: Yes.</p> <p>18 EXAMINATION BY MR. LEMBKE:</p> <p>19 Q. Will you state your name for the record again,</p> <p>20 please.</p> <p>21 A. William Dean Johnson.</p> <p>22 Q. And, Mr. Johnson, in what city do you live?</p> <p>23 A. I live in San Francisco, California.</p> <p>24 Q. And what is your current position at which</p> <p>25 you're employed?</p>

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<p style="text-align: right;">Page 121</p> <p>1 A. President and chief executive officer of PG&E 2 Corporation. 3 Q. And PG&E is Pacific Gas and Electric? 4 A. That is the common term, yes. 5 Q. Okay. And prior to your current -- prior to 6 your current position at PG&E, what position did you 7 hold? 8 A. I was the president and chief executive of the 9 Tennessee Valley Authority from January 2013 until May 10 of 2019. 11 Q. And your office was in Knoxville, Tennessee? 12 A. Yes. Knoxville, Tennessee. 13 Q. And prior to your time as CEO of TVA, where did 14 you work? 15 A. I spent 20 years at a company called Progress 16 Energy and was the CEO there the last five or six years 17 of that. 18 Q. Now, when you arrived at TVA in January of 19 2013, what was the status of the Bellefonte Nuclear 20 Plant project? 21 A. It was in some form of being rebuilt, but it 22 was behind Watts Bar 2, which was the nuclear plant that 23 was being reconstructed. So the TVA board had approved 24 the restart of Bellefonte, but not a lot was happening 25 there because all the focus was on Watts Bar 2. But it</p>	<p style="text-align: right;">Page 122</p> <p>1 was in the capacity plan, and there was some money being 2 spent on it every year. 3 Q. And did you undertake an analysis of what 4 should happen going forward with the Bellefonte plant? 5 A. Yes. As part of a bigger analysis, looking at 6 the load shape, what demand was going to be, and the 7 asset mix, I looked at all the plants and we determined 8 that TVA wouldn't need the Bellefonte plant until 9 sometime well into the future, maybe in 2040 range. And 10 so based on that, I went to the board and suggested that 11 we should halt the project entirely because we wouldn't 12 need it for the next 30 years. 13 Q. And when that decision -- let me put it this 14 way. 15 Did you present that recommendation to the TVA 16 board? 17 A. I did. 18 Q. And what was the recommendation? 19 A. The recommendation was to essentially cancel 20 the restart of the Bellefonte units because there was no 21 need for 'em. The price was too high for the capital 22 budget TVA had, and there were much more economic 23 options. 24 Q. Did you assess how Bellefonte compared or fit 25 in to TVA's overall mission?</p>
<p style="text-align: right;">Page 123</p> <p>1 A. Yes. Demand changed over time. TVA had six 2 nuclear plants, was building a seventh one, and so it 3 had more base load capacity than it needed and certainly 4 didn't need to add any more big units to meet the shape 5 of customer demand. 6 Q. All right. In making the recommendation to the 7 board to dispose of the Bellefonte property, did you 8 have any concern about potential competition from 9 whomever purchased the Bellefonte site? 10 A. No. 11 MR. O'REAR: Objection. Asked and answered. 12 THE WITNESS: There were actually two separate 13 discussions. We canceled the restart of the plant 14 before we got to the conversation of it being surplus 15 property. 16 BY MR. LEMBKE: 17 Q. Okay. So did -- so you're saying there were 18 two decisions made by the board? 19 A. That's correct. 20 Q. Okay. Now, when the decision came up, how long 21 after the first decision to remove it from the plan did 22 the decision get made to declare it surplus property 23 roughly? 24 A. I think it was on the order of 18 months or two 25 years.</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. Okay. Now, was the decision to bid on the 2 Bellefonte property the first exposure you had to 3 Franklin Haney or Nuclear Development in connection with 4 the Bellefonte site? 5 A. No. 6 Q. Tell me what your first interaction with 7 Mr. Haney or Nuclear Development was in connection with 8 the Bellefonte site. 9 A. So after the board decided that we could cancel 10 the restart of that unit, Mr. Haney contacted me and was 11 interested in financing the project and also exerted 12 significant political pressure to try to make TVA do the 13 project. 14 Q. So in terms of financing, are you saying that 15 that would have caused it to come back onto the active 16 project mode is what he wanted? 17 MR. O'REAR: Objection. Leading. 18 BY MR. LEMBKE: 19 Q. When Mr. Haney was proposing financing, it was 20 financing for what? 21 A. For the construction of the Bellefonte units. 22 Q. And if -- if TVA had -- why would TVA have need 23 for financing of the Bellefonte project? 24 A. Well, we were -- we have TVA statutory debt cap 25 of 30 billion. At that point the debt was about</p>

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<p style="text-align: right;">Page 125</p> <p>1 27 billion. And so if you were going to do the project, 2 having some other funding source might have been 3 helpful. But it wasn't the financing part of it that 4 made us to decide to stop the project. It was the fact 5 that there was no need for the project.</p> <p>6 Q. And how did you evaluate Mr. Haney's financing 7 proposal?</p> <p>8 A. I basically told him we weren't interested, but 9 he then exerted a lot of pressure that ended up with us 10 in a public hearing before Senators Corker and Alexander 11 and Congressman Jimmy Duncan to hash out in public 12 whether there was actually a need for the asset. So I 13 went to a meeting at the Baker Center and explained to 14 those elected officials how load forecasting works.</p> <p>15 Q. And what was the ultimate determination made as 16 to Mr. Haney's financing proposal?</p> <p>17 A. Well, TVA continued to conclude that we didn't 18 need the asset no matter how it was being financed, and 19 that was the decision and that decision continued.</p> <p>20 Q. And did that decision predate the 21 recommendation to declare Bellefonte as surplus 22 property?</p> <p>23 A. Yes.</p> <p>24 Q. All right. Prior to the determination to 25 declare Bellefonte a surplus property, do you recall</p>	<p style="text-align: right;">Page 126</p> <p>1 having any other engagement with Franklin Haney or 2 Nuclear Development about the Bellefonte site?</p> <p>3 A. Yes. Mr. Haney subsequently contacted me and 4 told me they were -- and this was before the formation 5 of the entity I think -- interested in acquiring and 6 completing the plant as a -- sort of like a speculative 7 housing build -- that's not the right word, but that's 8 the best -- that they would build it and be the owners.</p> <p>9 Q. And do you remember anything else about that 10 discussion by Mr. Haney?</p> <p>11 A. Yes. I remember we were called to a meeting in 12 the office of the Governor of Alabama, whose name I've 13 forgotten, but he's no longer the governor, where this 14 was discussed among many parties. And the Governor of 15 Alabama exerted significant -- well, he was very 16 interested in Mr. Haney acquiring the property and 17 finishing the plant is the way to say that, and he made 18 his interest known.</p> <p>19 Q. And was that meeting prior to the determination 20 by the board to declare it to be surplus property?</p> <p>21 A. It was prior to that determination, but we had 22 started thinking by that time about declaring it surplus 23 and trying to do something productive with it.</p> <p>24 Q. And was there a particular ask by Mr. Haney in 25 the context of those conversations?</p>
<p style="text-align: right;">Page 127</p> <p>1 A. There was some ask, like could we avoid a bid 2 process and just do a straight sale, things like that, 3 but there were no other asks at that time.</p> <p>4 Q. Okay. And then after TVA made -- the board 5 made the determination to declare Bellefonte to be 6 surplus property, what, if any, interaction did you have 7 with Franklin Haney or Nuclear Development?</p> <p>8 A. Well, after that decision by the board, 9 Mr. Haney was quite interested. So we had a lot of 10 interaction with him and Mr. Blust and others, how would 11 it work? We were going to have to do a bid which we 12 were required to do as a federally owned entity. So it 13 was a high level of interest in how the process would 14 work and how long it would take, those kind of things.</p> <p>15 Q. Now, back to the recommendation you made to 16 declare Bellefonte to be surplus property. Were you 17 concerned about competition from a party that might 18 acquire the Bellefonte site?</p> <p>19 A. "Concern" is too strong a word, but it 20 certainly was a risk that I considered, that the board 21 considered, we all considered. Over the years a number 22 of merchant plants have been built inside the TVA 23 footprint, and so this has happened before.</p> <p>24 But my conclusion was that the TVA value 25 proposition and the price proposition would be hard for</p>	<p style="text-align: right;">Page 128</p> <p>1 anybody to match.</p> <p>2 Q. And why did you reach the conclusion that the 3 value and price proposition would be difficult for any 4 acquiring party to match?</p> <p>5 A. Well, TVA has a low price. It does 6 tremendous -- I mean, very low price. Tremendous amount 7 of economic development that goes along with the low 8 price. Excellent community partner. And so I think the 9 combination of all those things, plus the long-term 10 history of the public power movement of people sticking 11 together, that's just a hard proposition to beat.</p> <p>12 And you -- if you think, for example, about a 13 new nuclear plant, the price of one nuclear plant 14 compared to a system average cost, that would be very 15 hard to match.</p> <p>16 Q. And were there any particular factors that 17 would have made it difficult for any acquiring party of 18 the Bellefonte plant that developed it into a nuclear 19 plant to compete cost-wise?</p> <p>20 MR. O'REAR: Are you asking him what his 21 thoughts were on that?</p> <p>22 MR. LEMBKE: Yes.</p> <p>23 MR. O'REAR: Okay. I'm sorry.</p> <p>24 THE WITNESS: Certainly the cost of building a 25 nuclear plant, which I have a lot of experience with it,</p>

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<p style="text-align: right;">Page 129</p> <p>1 it always costs you a lot more than you think it's going</p> <p>2 to. So I think the price is just a difficult thing to</p> <p>3 do. Transmission access was another thing.</p> <p>4 BY MR. LEMBKE:</p> <p>5 Q. What does that mean?</p> <p>6 A. Well, the -- how do you get the power from the</p> <p>7 plant to a customer? You need to have a transmission</p> <p>8 line to do that. The TVA Act in its amendments prohibit</p> <p>9 people using the TVA transmission system to serve TVA</p> <p>10 customers. So in addition to the cost of the plant,</p> <p>11 whatever plant, you have to pay for transmission. Those</p> <p>12 are expensive propositions.</p> <p>13 Q. Now, did you write the contract with Nuclear</p> <p>14 Development?</p> <p>15 A. No.</p> <p>16 Q. And were you involved in any way in drafting</p> <p>17 it?</p> <p>18 A. Not in the drafting, no.</p> <p>19 Q. All right. Did you have any view of the</p> <p>20 two-year period from the execution of the contract to</p> <p>21 closing?</p> <p>22 A. Yes.</p> <p>23 Q. What was that view?</p> <p>24 A. Again, our interest was economic development</p> <p>25 opportunity in a part of Alabama that really needs it.</p>	<p style="text-align: right;">Page 130</p> <p>1 And so I wanted to make sure that things were going to</p> <p>2 happen quickly, and I was really concerned about an</p> <p>3 open-ended process that just dragged on. So -- but when</p> <p>4 I understood why the two-year was asked for, then I was</p> <p>5 mollified.</p> <p>6 Q. And what was your understanding as to why the</p> <p>7 two-year period was asked for?</p> <p>8 A. My recollection is that there were two</p> <p>9 important things to Nuclear Development: Arranging the</p> <p>10 financing, which they thought would take a year; and</p> <p>11 their requirement that they obtain the permits before</p> <p>12 closing, which would take two years.</p> <p>13 Q. Mr. Johnson, TVA's largest customer at the time</p> <p>14 of the execution of the Nuclear Development contract was</p> <p>15 who?</p> <p>16 A. Memphis. Memphis Light, Gas and Water.</p> <p>17 Q. All right. And was there any controversy any</p> <p>18 time between the time that contract was executed and the</p> <p>19 contractual closing date for Nuclear Development with</p> <p>20 regard to Memphis?</p> <p>21 A. "Controversy" might not be the word. There</p> <p>22 certainly were discussions about them thinking what</p> <p>23 would they do with their power supply. They were in a</p> <p>24 transition to a new CEO, a lot of discussion about what</p> <p>25 they were going to do and what we needed to do to keep</p>
<p style="text-align: right;">Page 131</p> <p>1 them as a customer. So yeah, there was a lot of</p> <p>2 discussion about that.</p> <p>3 Q. And to your knowledge, was Nuclear Development</p> <p>4 talking to the City of Memphis?</p> <p>5 A. Yes.</p> <p>6 Q. Did you have any concerns about what Nuclear</p> <p>7 Development was saying to the City of Memphis?</p> <p>8 A. I did have concerns once I learned some of the</p> <p>9 things they were saying.</p> <p>10 Q. And what concerns or what were they saying that</p> <p>11 caused you concern?</p> <p>12 A. Well, as I said previously, the greatest</p> <p>13 concern was you should leave TVA under any circumstances</p> <p>14 'cause you can get a better deal elsewhere, which I</p> <p>15 think is empirically untrue. And also there was some</p> <p>16 things said about whether they could use the TVA</p> <p>17 transition system to wield the power from Bellefonte to</p> <p>18 MLGW, which I also thought was not true.</p> <p>19 Q. Did anything in particular upset you with</p> <p>20 regard to comments that were being made by Nuclear</p> <p>21 Development or its officers?</p> <p>22 A. Yeah. Particularly the comments about Entergy</p> <p>23 or MISO.</p> <p>24 Q. And who are Entergy and MISO?</p> <p>25 A. Entergy is a utility headquartered in</p>	<p style="text-align: right;">Page 132</p> <p>1 Louisiana. MISO is an independent system operator</p> <p>2 located in the Midwest in a number of states, dozens of</p> <p>3 generating members there. It's a big power pool.</p> <p>4 Q. And what was the comment that upset you</p> <p>5 relating to MISO and Entergy from Nuclear Development?</p> <p>6 A. That you can go there and get a better deal</p> <p>7 than you can get from TVA. And, you know, maybe in one</p> <p>8 hour, in one year you might get cheaper power out of one</p> <p>9 of those two. But in a long-term basis I just don't</p> <p>10 think that's true.</p> <p>11 Q. And why don't you think that's true?</p> <p>12 A. Because I've studied those markets pretty</p> <p>13 closely, and I know what the power prices are. I did</p> <p>14 then at least. I know what the transition capability</p> <p>15 is, and there are requirements to joining MISO that cost</p> <p>16 you a lot of money. You have to have generation and</p> <p>17 back stand, and it's not just a simple thing like going</p> <p>18 out and buying megawatt hours.</p> <p>19 Q. To your knowledge, did Memphis have the</p> <p>20 generation capacity to join MISO at the time?</p> <p>21 A. Memphis doesn't have any generating capacity.</p> <p>22 Q. And you mentioned back stand. What is back</p> <p>23 stand?</p> <p>24 A. So that is if your power supply goes out -- all</p> <p>25 plants break occasionally -- what do you do to</p>

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<p style="text-align: right;">Page 133</p> <p>1 back-stand your usual supply? So it's replacement in 2 times of emergency or mechanical failure, those kind of 3 things.</p> <p>4 Q. And did you understand Memphis had that lined 5 up at the time the recommendation or the statement was 6 made by Nuclear Development about Memphis potentially 7 joining MISO?</p> <p>8 A. No. Memphis is a longtime full-requirements 9 customer of TVA's.</p> <p>10 Q. Do you know any -- from your perspective, was 11 there any advantage to Nuclear Development that they 12 would gain if Memphis switched to MISO or Entergy?</p> <p>13 A. I couldn't see any advantage to them, which is 14 one of the reasons it affected me.</p> <p>15 Q. And following -- how did you find out about the 16 comments that were made by Nuclear Development?</p> <p>17 A. Read it in the paper, had a report from people 18 there and then saw a transcript of the meeting.</p> <p>19 Q. And who at Nuclear Development made the 20 comments?</p> <p>21 A. Bill McCollum.</p> <p>22 Q. And who is Mr. McCollum?</p> <p>23 A. A former TVA executive who now I think works 24 for Nuclear Development.</p> <p>25 Q. Now, did you have any meetings with Memphis to</p>	<p style="text-align: right;">Page 134</p> <p>1 respond to what had been said by Mr. McCollum?</p> <p>2 A. Had meetings, I think two meetings with the 3 city council -- maybe three, I think two -- where I did 4 respond a little bit to some of those things, but 5 basically focused on why they should stay with TVA and 6 what the value proposition from TVA was.</p> <p>7 Q. Now, at any point between the time Nuclear 8 Development signed its contract with TVA for the 9 purchase of the Bellefonte site and the contractual 10 closing date two years later, did Nuclear Development 11 ever suggest that it would sell power generated at 12 Bellefonte to TVA?</p> <p>13 A. Yes.</p> <p>14 MR. O'REAR: Let me object to the vagueness of 15 that question without asking who, what, when, where. I 16 mean, when you say Nuclear Development it doesn't tell 17 us much.</p> <p>18 BY MR. LEMBKE:</p> <p>19 Q. Mr. Johnson, did anyone affiliated with Nuclear 20 Development ever propose that Nuclear Development would 21 sell power to TVA?</p> <p>22 A. Yes.</p> <p>23 Q. When did that occur? Before or after 24 November 2016 when Nuclear Development signed its 25 contract with TVA?</p>
<p style="text-align: right;">Page 135</p> <p>1 A. My recollection, that it was after. Mr. Haney 2 made several proposals about selling power to TVA after 3 that.</p> <p>4 Q. All right. And do you recall any of the 5 details of what Mr. Haney proposed?</p> <p>6 A. No. The proposals were price per megawatt. 7 That was dependent on a number of other financial 8 factors and tax credits and loan guarantees, and the 9 specifics I don't recall.</p> <p>10 Q. Did TVA accept any of those proposals?</p> <p>11 A. No.</p> <p>12 Q. Why not?</p> <p>13 A. We didn't need the type of power, and it wasn't 14 in the money compared to our own generation.</p> <p>15 Q. When you say "it wasn't in the money," what do 16 you mean?</p> <p>17 A. It was more expensive than what we could make 18 on our own.</p> <p>19 Q. Okay. Now, what, if any, understanding did you 20 have about a request from Nuclear Development for an 21 extension of the closing date by six months of its 22 contract for the purchase of the Bellefonte site?</p> <p>23 MR. O'REAR: Objection. Asked and answered.</p> <p>24 THE WITNESS: I don't recall specifically when, 25 but I do recall sometime August, October of 2018 a</p>	<p style="text-align: right;">Page 136</p> <p>1 request for a six-month extension.</p> <p>2 BY MR. LEMBKE:</p> <p>3 Q. And who made the ultimate decision on that 4 extension?</p> <p>5 A. I did.</p> <p>6 Q. And what was that decision?</p> <p>7 A. A short two-week extension but no long 8 extension.</p> <p>9 Q. And why did you decide not to agree to a long 10 extension?</p> <p>11 A. Because I --</p> <p>12 MR. O'REAR: Objection. Asked and answered.</p> <p>13 THE WITNESS: I thought the process would drag 14 on. I'd been concerned from the beginning with 15 open-ended conditions and concerned about how long this 16 would actually take.</p> <p>17 BY MR. LEMBKE:</p> <p>18 Q. Now, the closing date on the contract was 19 November 30th, 2018, by virtue of the short extension; 20 is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And did TVA decide not to close on that date?</p> <p>23 A. We decided we could not close.</p> <p>24 Q. And why did you decide that?</p> <p>25 A. Because we had an outside opinion from a very</p>

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1 respected nuclear licensing firm that said to do so
 2 would be unlawful without the transfer of the permits.
 3 And we also had a permit issue of our own where our own
 4 permit required us to maintain control of the site, and
 5 we couldn't sell it and maintain control at the same
 6 time. Those were the reasons.
 7 **Q. And who made that final decision not to close?**
 8 A. I did.
 9 **Q. And as CEO, did you believe you had authority**
 10 **to take an illegal action?**
 11 A. No. No.
 12 **Q. Earlier today we watched a video of a town hall**
 13 **meeting. Tell me, what were those town hall meetings?**
 14 A. They were meetings open to all employees. We
 15 would have a live audience and then the phone and a
 16 streamed audience, several thousand people, and we would
 17 talk about some current events and then take questions.
 18 Usually it lasted an hour, hour and a half.
 19 **Q. And Mr. O'Rear asked you some questions earlier**
 20 **today about that.**
 21 **At the time of that video, had you made a final**
 22 **decision not to close?**
 23 A. No.
 24 **Q. Were you leaning in a particular direction?**
 25 A. I was leaning against giving the extension.

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1 **Q. After the board made the decision to declare**
 2 **Bellefonte surplus property, what type of decision**
 3 **relating to Bellefonte do you think would have required**
 4 **formal board action?**
 5 A. A decision to undeclare it surplus property.
 6 Once the decision to declare it surplus, the execution
 7 of that is delegate to the management team.
 8 **Q. Did you believe it was necessary for the board**
 9 **to approve the execution of the contract with Nuclear**
 10 **Development?**
 11 A. No.
 12 **Q. Did you believe it was necessary for the board**
 13 **to approve any of the specific terms of the contract**
 14 **with Nuclear Development?**
 15 A. No.
 16 **Q. Do you believe it was necessary for the board**
 17 **to formally approve any changes in the terms?**
 18 A. No.
 19 **Q. Do you believe it was necessary for the board**
 20 **to approve a decision not to close based upon a legal**
 21 **opinion that it would be illegal to do so?**
 22 A. No.
 23 **Q. When you said that you consulted with board**
 24 **members, why did you do that?**
 25 A. Well, every good CEO who wants to keep his or

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1 **Q. Now, earlier today we looked at the minutes of**
 2 **the meeting whereby the TVA board decided not -- excuse**
 3 **me -- decided to declare the Bellefonte property to be**
 4 **surplus property. And you indicated that two of the**
 5 **board members abstained. Do you recall that?**
 6 A. Yes, it was reflected in those minutes.
 7 **Q. And do you recall who those board members are?**
 8 A. Ron Walter and Jenna Lodge.
 9 **Q. And do you know why they abstained?**
 10 A. Yes.
 11 **Q. Why?**
 12 A. As a condition of their confirmation,
 13 Senator Corker required them to avoid any decisions
 14 involving Mr. Haney or Bellefonte.
 15 **Q. With regard to the board, what level of**
 16 **decisions was the board typically involved in making?**
 17 A. So the board would make policy decisions, as we
 18 discussed earlier. They would make major procurement
 19 and project decisions. So they would approve the
 20 project and then leave execution up to the management
 21 team.
 22 There was a delegation of authorities on terms
 23 of money and those kind of things, but they would
 24 usually make very high-level decisions and then
 25 management would execute them.

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1 her job will consult with his board members. There's a
 2 difference between seeking approval and keeping your
 3 board informed and getting a sense of the board. So
 4 that is just good -- good practice.
 5 **Q. What, if any, role did ND's attempt to sell**
 6 **power or enter into a power purchase contract with**
 7 **Memphis have in your decision not to close?**
 8 A. None.
 9 **Q. Earlier today you said you wanted to close the**
 10 **deal.**
 11 **Do you recall that testimony?**
 12 A. Yes.
 13 **Q. What did you mean?**
 14 A. I wanted the transaction to happen. I think it
 15 would be great for TVA to not have that plant, not have
 16 that property, and put it into productive use.
 17 **Q. Did you view your desire to close the deal as**
 18 **the same -- as the equivalent of agreeing to an**
 19 **extension of the closing date?**
 20 MR. O'REAR: Objection. I don't understand
 21 that question, actually. Maybe --
 22 BY MR. LEMBKE:
 23 **Q. All right. Well, earlier, Mr. Johnson, you**
 24 **said that you wanted to close the deal, but you also**
 25 **ultimately decided not to extend the closing date. How**

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<p style="text-align: right;">Page 141</p> <p>1 do you reconcile those two statements?</p> <p>2 A. Yeah. 'Cause I don't -- I was concerned we</p> <p>3 would never get to a closing date. The request were for</p> <p>4 six months. I think my concern has proven true because</p> <p>5 we're well past six months, and there are no permits.</p> <p>6 And so just wanted to move on and see if</p> <p>7 something else could happen with the site. But I was</p> <p>8 very concerned that this process would just continue and</p> <p>9 continue and get more entangled, and that was the</p> <p>10 concern.</p> <p>11 MR. LEMBKE: I don't have any further</p> <p>12 questions.</p> <p>13 MR. O'REAR: I have a few follow-up questions</p> <p>14 to that.</p> <p>15 FURTHER EXAMINATION BY MR. O'REAR:</p> <p>16 Q. If I may?</p> <p>17 A. Absolutely.</p> <p>18 Q. When you said earlier in response to a question</p> <p>19 for Mr. Lembke that there were issues for Nuclear</p> <p>20 Development which included price and the transmission</p> <p>21 process, those were risks that Nuclear Development</p> <p>22 undertook under this contract; is that correct?</p> <p>23 A. That is correct. What I was referring to was</p> <p>24 when they showed numbers to Memphis, they never included</p> <p>25 any transmission costs.</p>	<p style="text-align: right;">Page 142</p> <p>1 Q. Okay. And how is that related to your right to</p> <p>2 terminate the contract?</p> <p>3 A. I don't think I related those.</p> <p>4 Q. Okay. Good.</p> <p>5 A. I think I said that in relation to did I think</p> <p>6 misleading things were being said.</p> <p>7 Q. In response to a question from Mr. Lembke, you</p> <p>8 said that someone at Nuclear Development said they</p> <p>9 needed two years between the date of the contract and</p> <p>10 the date of the closing to obtain financing and to</p> <p>11 obtain transfer of the construction permits; is that</p> <p>12 correct?</p> <p>13 A. That's correct.</p> <p>14 Q. And who told you that?</p> <p>15 A. A letter from Mr. Blust.</p> <p>16 Q. Okay. A letter to you?</p> <p>17 A. A letter to -- I believe it was Concentric.</p> <p>18 Q. This was a letter to Concentric before the</p> <p>19 contract was actually executed?</p> <p>20 A. Correct.</p> <p>21 Q. So this was part of the negotiation process</p> <p>22 over the terms of the contract; correct?</p> <p>23 A. Yes.</p> <p>24 Q. And I asked you earlier in the deposition, were</p> <p>25 you aware that Nuclear Development actually requested</p>
<p style="text-align: right;">Page 143</p> <p>1 that a provision of the contract be that the closing</p> <p>2 would be conditioned on TVA's transfer of the</p> <p>3 construction permits to Nuclear Development, did I not?</p> <p>4 A. A question like that, yes.</p> <p>5 Q. Yes. And were you aware or are you aware that</p> <p>6 TVA rejected that provision of the contract as a</p> <p>7 condition of closing?</p> <p>8 A. I was not aware of that until you showed me</p> <p>9 documents today.</p> <p>10 Q. Okay. So these comments that you were</p> <p>11 referring to about the need for the two years were all</p> <p>12 in the process of negotiation before the actual terms of</p> <p>13 the contract were executed by both parties?</p> <p>14 A. Actually, my comment is that it's very clear to</p> <p>15 me that Nuclear Development knew they needed the permits</p> <p>16 to get the closing as early as two years before and</p> <p>17 didn't acquire them.</p> <p>18 Q. Well, what made that clear to you?</p> <p>19 A. Mr. Blust's letter and the response from</p> <p>20 Concentric.</p> <p>21 Q. Okay. And, again, those are exchanges --</p> <p>22 they'll reveal whatever those exchanges show --</p> <p>23 A. Correct.</p> <p>24 Q. -- that occurred before the contract was</p> <p>25 executed?</p>	<p style="text-align: right;">Page 144</p> <p>1 A. Yeah.</p> <p>2 Q. And you understand, as a lawyer by training and</p> <p>3 practice, that the issue in this case is what this</p> <p>4 contract says and whether it was breached or not;</p> <p>5 correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And if there were exchanges from -- between the</p> <p>8 parties, between Nuclear Development and Concentric or</p> <p>9 Nuclear Development and TVA, before the contract was</p> <p>10 signed that didn't make it into the contract, do you</p> <p>11 believe those are part of this lawsuit?</p> <p>12 MR. LEMBKE: Object to the form. Calls for a</p> <p>13 legal conclusion and vague.</p> <p>14 MR. O'REAR: I don't think it's vague.</p> <p>15 MR. LEMBKE: "Part of this lawsuit" is vague.</p> <p>16 THE WITNESS: So I do recall --</p> <p>17 MR. O'REAR: At issue in this lawsuit.</p> <p>18 THE WITNESS: You know, I --</p> <p>19 MR. LEMBKE: Same objection.</p> <p>20 THE WITNESS: -- quit practicing law 20 --</p> <p>21 30 years ago and gave up my license 20 years ago, but I</p> <p>22 do remember the four corners rule of the document.</p> <p>23 But I do think it is fair if you take the</p> <p>24 position that toward closing that you don't need the</p> <p>25 permits when two years earlier you said I need two years</p>

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<p style="text-align: right;">Page 145</p> <p>1 to go get 'em, that seems to be an inconsistency to me.</p> <p>2 BY MR. O'REAR:</p> <p>3 Q. Well, does it seem to be an inconsistency to</p> <p>4 you that TVA never contended at all until the two or</p> <p>5 three days or a week before this closing and officially</p> <p>6 not until the day before the closing that there was a</p> <p>7 requirement of this closing that those construction</p> <p>8 permits be transferred?</p> <p>9 MR. LEMBKE: Object to the form.</p> <p>10 BY MR. O'REAR:</p> <p>11 Q. Does that -- does that bother you that TVA</p> <p>12 waited until the day before the closing to make that</p> <p>13 contingent?</p> <p>14 MR. LEMBKE: Object to the form. Assumes facts</p> <p>15 not in evidence. Lack of foundation.</p> <p>16 THE WITNESS: It doesn't bother me because we</p> <p>17 made the assumption that they knew what they were doing</p> <p>18 and knew what they were required to do, were well</p> <p>19 represented by high-level nuclear licensing law firms.</p> <p>20 BY MR. O'REAR:</p> <p>21 Q. Well, did TVA know what it was doing when it</p> <p>22 had 50-man law -- legal department and a large licensing</p> <p>23 department focused on these very issues where it never</p> <p>24 once raised this issue until immediately prior to the</p> <p>25 closing? Did TVA know what it was doing?</p>	<p style="text-align: right;">Page 146</p> <p>1 MR. LEMBKE: Object to the form. Lack of</p> <p>2 foundation. Argumentative.</p> <p>3 THE WITNESS: I don't think I could answer</p> <p>4 that.</p> <p>5 MR. LEMBKE: Calls -- lack of foundation.</p> <p>6 Argumentative. Assumes facts --</p> <p>7 THE WITNESS: I think we've gotten to --</p> <p>8 (Court reporter clarification.)</p> <p>9 MR. LEMBKE: Object to the form. Lack of</p> <p>10 foundation. Assumes facts not in evidence.</p> <p>11 Argumentative.</p> <p>12 THE REPORTER: And then your answer?</p> <p>13 THE WITNESS: I can't answer the question.</p> <p>14 BY MR. O'REAR:</p> <p>15 Q. So TVA's 50-man law department and TVA's</p> <p>16 licensing department never objected to the process that</p> <p>17 was laid out at a public meeting of the NRC until just</p> <p>18 literally minutes before the closing was to occur?</p> <p>19 MR. LEMBKE: Object to the form.</p> <p>20 BY MR. O'REAR:</p> <p>21 Q. Is that right?</p> <p>22 MR. LEMBKE: Lack of foundation.</p> <p>23 THE WITNESS: I don't know that to be correct.</p> <p>24 MR. LEMBKE: Argumentative.</p> <p>25 ---o0o---</p>
<p style="text-align: right;">Page 147</p> <p>1 BY MR. O'REAR:</p> <p>2 Q. Well, there was never an objection made until</p> <p>3 at the earliest days before, mere days before the</p> <p>4 closing date?</p> <p>5 MR. LEMBKE: Same objection.</p> <p>6 BY MR. O'REAR:</p> <p>7 Q. Correct?</p> <p>8 A. I don't know that to be true.</p> <p>9 MR. LEMBKE: Same objection.</p> <p>10 BY MR. O'REAR:</p> <p>11 Q. Mr. LEMBKE asked you about your discussions</p> <p>12 with board members and with respect to the decision not</p> <p>13 to close and the decision not to extend the closing.</p> <p>14 So and I asked you earlier who did you talk to,</p> <p>15 what board members did you talk to about that, and can</p> <p>16 you tell me now what members you talked to about those</p> <p>17 two points?</p> <p>18 A. I think I --</p> <p>19 MR. LEMBKE: Objection to the form.</p> <p>20 Argumentative.</p> <p>21 MR. O'REAR: That's not argumentative.</p> <p>22 THE WITNESS: I think I told you earlier --</p> <p>23 MR. LEMBKE: It is argumentative because</p> <p>24 you're -- well, it is argumentative.</p> <p>25 THE WITNESS: I don't recall specifically, but</p>	<p style="text-align: right;">Page 148</p> <p>1 as a matter of course, this is the kind of thing over a</p> <p>2 40-year career I would have done.</p> <p>3 BY MR. O'REAR:</p> <p>4 Q. How are we going to know or test whether or not</p> <p>5 you had those conversations if you won't tell us who you</p> <p>6 talked to?</p> <p>7 MR. LEMBKE: Now, that's argumentative and I</p> <p>8 object to the form. He's already asked -- that's been</p> <p>9 asked and answered that he doesn't recall.</p> <p>10 THE WITNESS: I've told you everything I know.</p> <p>11 It's not -- I'm not declining to answer. I've told you</p> <p>12 everything I know.</p> <p>13 BY MR. O'REAR:</p> <p>14 Q. Did any of those directors express any</p> <p>15 reservation at all about your decision to not close the</p> <p>16 transaction?</p> <p>17 A. I don't have any recollection of any such</p> <p>18 concern.</p> <p>19 Q. Did any of those board members express approval</p> <p>20 of your decision not to close?</p> <p>21 A. I don't recall that either.</p> <p>22 Q. Did any of the board members express any</p> <p>23 opposition to your decision not to extend the closing by</p> <p>24 six months?</p> <p>25 A. I don't recall that.</p>

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1 Q. Did any of the board members you talked to
2 express any approval of your decision not to close --
3 A. I don't --
4 Q. -- in six months?
5 A. I don't recall that.
6 MR. O'REAR: That's all I have.
7 FURTHER EXAMINATION BY MR. LEMBKE:
8 Q. Mr. Johnson, you testified earlier that you
9 reviewed the Pillsbury legal opinion; correct?
10 A. Yep. Yes.
11 Q. Did you review that before you made a final
12 decision on whether to close or not?
13 A. Yes.
14 Q. And once you read that opinion, what choice, if
15 any, did you think you had with regard to your ultimate
16 decision whether to close?
17 A. I didn't think we could close at that moment
18 because of the permit issue, and I thought it was a
19 pretty strong opinion. In addition to looking at it, I
20 actually went and pulled the Atomic Energy Act and read
21 it and read some of those cases. And so I really did
22 not think we could go to closing, and then the question
23 was about were we going to get an extension.
24 MR. LEMBKE: No further questions.
25 ---o0o---

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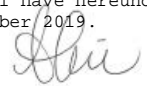
1 THE REPORTER: Mr. Lembke, would you like a
2 copy of the transcript?
3 MR. LEMBKE: Yes, regular and mini.
4 (The deposition concluded at 12:52 p.m.)
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1 FURTHER EXAMINATION BY MR. O'REAR:
2 Q. Just to follow up that, so when did you review
3 the Atomic Energy Act and the cases?
4 A. Probably the 28th, but it was right after I
5 read the letter.
6 Q. And you pulled the cases on your own and read
7 them?
8 A. Had 'em sent to me.
9 Q. By whom?
10 A. I can't remember. Somebody in the legal
11 department.
12 Q. And you read them?
13 A. I read 'em.
14 Q. Did those cases convince you that it would be
15 illegal to transfer the property?
16 A. Yes.
17 Q. Do you remember what cases said that?
18 A. The ones that were cited in there.
19 Q. All of them?
20 A. I don't remember all of them. But. . .
21 MR. O'REAR: That's all.
22 MR. LEMBKE: Nothing further.
23 THE VIDEOGRAPHER: All right. That concludes
24 the deposition for today. The time is 12:52. We're
25 going off the record.

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REPORTER'S CERTIFICATE

1
2
3 I, ANGELA SINCLAIR, a Stenographic Certified
4 Shorthand Reporter, holding a valid and current license
5 issued by the State of California, duly authorized to
6 administer oaths, do hereby certify:
7
8 That WILLIAM JOHNSON, in the foregoing
9 deposition named, was present and by me sworn as a
10 witness in the above-entitled action at the time and
11 place therein specified.
12 That said deposition was taken before me at
13 said time and place, and was taken down in shorthand by
14 me and was thereafter transcribed into typewriting, and
15 that the foregoing transcript constitutes a full, true
16 and correct report of said deposition and of the
17 proceedings that took place.
18
19 The dismantling, unsealing, or unbinding of the
20 original transcript will render the Reporter's
21 Certificate null and void.
22
23 Should the signature of the witness not be
24 affixed to the deposition, the witness shall not have
25 availed himself/herself of the opportunity to sign or
the signature has not been waived.
I further certify that I am neither counsel for
nor related to any party in the foregoing deposition and
caption named nor in any way interested in the outcome
thereof.
That before completion of the proceedings,
review of the transcript WAS requested pursuant to
Federal Rule 30(e).
IN WITNESS WHEREOF, I have hereunder subscribed
my hand this 22nd day of October 2019.

ANGELA SINCLAIR, CCRR, CRR, RPR,
CSR 13902
State of California

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DECLARATION UNDER PENALTY OF PERJURY

Case Name: Nuclear Development, LLC vs.
Tennessee Valley Authority

Date of Deposition: 10/09/2019

Job No.: 10061754

I, WILLIAM JOHNSON, hereby certify
under penalty of perjury under the laws of the State of
_____ that the foregoing is true and correct.
Executed this _____ day of
_____, 2019, at _____.

WILLIAM JOHNSON

NOTARIZATION (If Required)

State of _____

County of _____

Subscribed and sworn to (or affirmed) before me on
this _____ day of _____, 20____,
by _____, proved to me on the
basis of satisfactory evidence to be the person
who appeared before me.

Signature: _____ (Seal)

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DEPOSITION ERRATA SHEET

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Page _____ Line _____ Reason _____

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From _____ to _____

_____. Subject to the above changes, I certify that the
transcript is true and correct

_____. No changes have been made. I certify that the
transcript is true and correct.

WILLIAM JOHNSON

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DEPOSITION ERRATA SHEET

Case Name: Nuclear Development, LLC vs.
Tennessee Valley Authority

Name of Witness: William Johnson

Date of Deposition: 10/09/2019

Job No.: 10061754

Reason Codes: 1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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